

Chapter 545

1993 EDITION

Irrigation Districts

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WATER LAWS

DEFINITIONS; ORGANIZATION OF IRRIGATION DISTRICTS; ELECTIONS

545.002 Definitions; voting rights. (1) As used in the Irrigation District Act, "owner of land" or "elector" includes every person 18 years of age or older, whether a resident of the district or state or not, who is an owner or a vendee under a contract of purchase of land situated within the district and subject to the charges or assessments of the district.

(2) If ownership is in estates by the entirety, tenants in common, or in other cases of multiple ownership, only one vote shall be allowed in behalf of all the owners under each multiple ownership. The vote may be cast by any one of the multiple owners who holds an authorization in writing from the other owners.

(3) Any corporation shall be entitled to vote as a single landowner through any officer or agent when the officer or agent is authorized to vote by the corporation and the written authorization is filed with the secretary of the board of directors of the district.

(4) Any trustee of a trust, guardian, administrator or executor authorized to act as such of a person or estate owning land within the district shall be considered a landowner for the purposes of the Irrigation District Act, where the owner in fee is not otherwise entitled to vote.

(5) On all matters requiring or allowing a vote of the owners of land or the electors of a district, each owner or elector shall be entitled to vote according to the total amount of acreage owned by the owner or elector and subject to the charges or assessments of the district on the basis of:

(a) One vote for up to 40 acres;

(b) Two votes for more than 40 acres and up to 160 acres; and

(c) Three votes for more than 160 acres.

(6) When a district is divided into divisions under ORS 545.008 or 545.022 and voting is for a director from a division by the qualified electors within the division, an elector who is required or permitted under ORS 545.022 to vote in that division may cast the number of votes under subsection (5) of this section that represents the total amount of acreage owned by the elector within the whole district.

(7) The weighted voting provisions of subsection (5) of this section shall not apply in an election for the formation of a district and for its initial board of directors under ORS 545.012 and 545.014 (1). In such an election, each owner of land is entitled to cast one vote.

(8) As used in this chapter, "Irrigation District Act" means ORS 545.002 to 545.014, 545.026 to 545.040, 545.062 to 545.090, 545.102, 545.106, 545.192 to 545.216, 545.432 to 545.440, 545.448 to 545.454, 545.458, 545.562, 545.582 to 545.592, 545.594 to 545.598 and 545.602 to 545.622. [Amended by 1993 c.771 §3]

545.004 Irrigation district may be organized; petition of landowners; publication of petition and notice of hearing. (1) Whenever 50 or a majority of the owners of land irrigated or susceptible to irrigation desire to provide for the construction of works for irrigation of the same, or desire to provide for the reconstruction, betterment, extension, purchase, operation or maintenance of works already constructed, or for the assumption as principal or guarantor of indebtedness on account of district lands to the United States under the federal reclamation laws, they may propose the organization of an irrigation district under the provisions of the Irrigation District Act by signing a petition and filing it with the county court of the principal county, as defined in ORS 198.705.

(2) The petition shall set forth:

(a) A statement that the petition is filed for the formation of an irrigation district under the Irrigation District Act in this chapter;

(b) The name of the proposed district;

(c) A description of the exterior boundaries of the proposed district. The description may be by metes and bounds, quarter quarter section lines or assessor's map and tax lot numbers;

(d) A statement declaring whether the district board of directors shall consist of three or five members and, if three members, whether the district shall be subdivided for the election of directors or whether directors shall be elected at large; and

(e) A request that proceedings be taken for the formation of the district.

(3) ORS 198.760, 198.765, 198.770 and 198.775 apply to petitions for the formation of an irrigation district, except that an economic feasibility statement is not required.

(4) Each signature sheet shall be verified by the affidavit of the person circulating the petition stating that every person who signed the petition did so in the presence of the person circulating the petition.

(5) A description and map of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the district, together with the names and mailing addresses of all of the owners of the lands, shall be included in the petition or attached to the petition as an exhibit. Reference to the

assessor's map and tax lot number is sufficient for the description of lands required under this subsection.

(6) When the petition for formation is filed with the county court of the principal county, the county court shall set a date for a hearing on the petition, which date shall be not less than 30 days nor more than 50 days after the date on which the petition is filed. The county court shall cause notice of the hearing to be posted in at least three public places in the county and published by two insertions in a newspaper. The notice shall state:

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

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

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

(d) That all interested persons may appear and be heard.

(7) If the petition is signed by all of the owners of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the proposed district, publication of the notice of the hearing on the petition is not required. A petition signed by all of the owners of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the proposed district may also contain the names of persons desired as the members of the first board of directors of the proposed district, the initial term of office of each director and a written statement from each of those persons in which the person agrees to serve as a director of the proposed district. [Amended by 1967 c.503 §1; 1993 c.771 §4]

545.006 Hearing of petition by county court; authority as to boundaries of district; lands included; order; formation of district without election. (1) When the petition for formation of an irrigation district is filed, the county court shall hold the hearing required under ORS 545.004 (6) and may adjourn the hearing from time to time, not exceeding four weeks in all. In the final hearing the county court may make such change in the proposed boundaries as the court may find proper, and shall establish and define the boundaries, subject to the following provisions:

(a) No incorporated city, town or platted subdivision or part thereof adjacent thereto chiefly available for residence purposes shall be included in an irrigation district; but this proviso is expressly limited to residence property, and all lands, whether wholly or partially within any incorporated city or town, used or suitable for agricultural or

horticultural purposes and not platted in tracts of less than one acre, may be included. However, if an irrigation district is formed as a successor district to another water supply entity and if that entity provides water for irrigation to land within any city or platted subdivision, the restriction imposed by this paragraph does not apply to such land that is served by the water supply entity at the time of formation of the irrigation district.

(b) The county court shall not modify the boundaries so as to except any territory within the boundaries of the district proposed by the petitioners which is susceptible of irrigation by the same system of works applicable to other lands in the proposed district.

(c) Any person whose lands are susceptible to irrigation from the same system of works may, in the discretion of the county court, upon written application of the owner of the land, have such lands included in the district.

(2) On the final hearing, the county court shall make and enter an order determining whether the requisite number of owners of the land within the proposed district have petitioned for its formation, and whether the notice required under ORS 545.004 (6) has been duly published.

(3) If the county court finds that the petition is signed by all of the owners of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the proposed district and if the only modifications of district boundaries are at the request of petitioners or others seeking inclusion under subsection (1)(c) of this section, the county court shall enter an order creating the district and the election otherwise required by ORS 545.010 shall not be held. If the petition for formation also names persons desired as members of the first board of directors of the district and those persons have agreed in writing to serve as directors, the order shall declare those persons to be the directors of the district. [Amended by 1993 c.771 §5]

545.008 Naming and division of districts; election precincts. (1) The court in the order shall designate the name of the district, which name may be changed by the court at any time thereafter upon petition of the board of directors of the district accompanied with the consent, in writing, of a majority of the owners of lands within the district or accompanied with the certificate of the secretary of the district that, at a regular or special election called and held in the district for any purpose provided by law, the proposed change of name was approved

by a majority of the electors voting upon the question of change of name. The secretary of the district shall cause a certified copy of the order to be recorded in the office of the county clerk of the county or counties in which the district is located.

(2) The court shall, if the petition so directs, divide the district in three divisions of as nearly equal size as may be practicable, which divisions shall be numbered first, second and third; and shall establish a convenient number of election precincts in the proposed district, and define their boundaries. The precincts may thereafter be changed by the board of directors of the district.

545.010 Notice of election for determining organization of district; contents; publication; mailing. (1) Except when an election is not required as provided in ORS 545.006 (3), the county court shall forthwith give notice of an election to be held in the proposed district for the purpose of determining whether or not it shall be organized under the provisions of the Irrigation District Act and for the purpose of electing an initial board of directors. The notice shall describe the boundaries established, unless the county court, in the order defining the boundaries, orders that they need not be described in the notice, but that in lieu thereof the notice shall refer to and make a part thereof the boundaries as defined in the order of the county court defining them, on file in the office of the county clerk of the county in which the district is located. The notice shall designate the name of the proposed district, state the date of the election, the board positions to be voted upon and the latest date on which candidates for election as board members may file petitions for nomination. The notice shall be published once each week, commencing not later than the 50th day before the election, for at least four consecutive weeks in a newspaper of general circulation in the county. If any portion of the district lies within another county, then the notice shall be published in a newspaper of general circulation in each county in the same time and manner. The notice shall require the electors to cast ballots which contain the words "Irrigation District — Yes," and "Irrigation District — No," or words equivalent thereto. The county clerk shall at the same time send a copy of the notice by registered mail or by certified mail with return receipt to each landowner not joining in the petition for organization of the district in so far as their names and addresses can be reasonably ascertained. The provisions hereof as to mailing notices are directory and not jurisdictional.

(2) It shall not be necessary in the holding of any election in any irrigation district to embody in the notice of or calling such election any description of the lands within or the boundaries of the district, if the county court or board of directors of the district in calling the election orders that such descriptions shall not be included in the notice, but that reference to the order calling the election and in which the descriptions are contained shall be sufficient. [Amended by 1967 c.503 §2; 1991 c.249 §54; 1993 c.771 §6]

545.012 Election; how conducted; order declaring result; inclusion of portion of district in another district; commencement of duties by directors. (1) The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state, except that no particular form of ballot shall be required, and the provisions of the election laws as to the form of ballot and as to the nomination of candidates shall not apply. Nominations for candidates for the board of directors may be made by petition, signed by at least 10 electors in the proposed district or division, qualified to vote for the directors nominated by them, or at an assembly of not less than 25 electors, which nominations by petition or by assembly shall be filed with the county clerk at least 30 days next preceding the date of election. The county clerk shall have the names of all persons nominated placed on the ballots as candidates for the offices for which they have been nominated. Such ballots shall have a blank line under the names printed, wherein may be written the name of any candidate voted for.

(2) If an elector is not shown as an owner on the last equalized assessment roll or is not shown as having authority to vote on behalf of the owner, the county clerk shall be furnished with written evidence, satisfactory to the county clerk, that the elector:

- (a) Is a legal representative of the owner;
- (b) Is entitled to be shown as the owner of land on the next assessment roll;
- (c) Is a purchaser of land under a written agreement of sale; or
- (d) Is authorized to sign for and on behalf of any public agency owning land.

(3) The county court shall meet on the first Monday that is at least 10 days after the election and canvass the votes cast, and enter an order declaring the result of the election. If upon the canvass it appears that at least three-fifths of the votes cast are "Irrigation District — Yes," the court shall, by an order entered on its minutes, declare the territory organized as an irrigation district, under the name and style theretofore designated, and shall declare the persons receiv-

ing, respectively, the highest number of votes for the several available director positions to be elected to those positions. The court shall cause a copy of the order, duly certified, to be immediately filed for record in the office of the county clerk of each county in which any portion of the lands is situated.

(4) No county court of any county including any portion of the district shall, after the date of organization of the district, allow another district to be formed including any lands in that district, without first securing consent thereof.

(5) From and after the date of such filing, the organization of the district shall be complete, and the directors may enter immediately upon the duties of their offices upon qualifying as provided by law. They shall hold office until their successors are elected and qualified. [Amended by 1993 c.771 §7]

545.014 Directors; qualifications; elections; terms of office; oath. (1) At the election for the organization of an irrigation district one director, who is a resident of Oregon and a bona fide owner, or a shareholder of a bona fide corporate owner, of land situated in the division, shall be elected from each division into which the district has been divided by the county court or the board of county commissioners, or the directors shall be elected from the district at large if no division has been made. Terms of the directors so elected shall expire in one, two and three years, respectively, from the first Tuesday in January next succeeding their election. Their respective terms shall be decided by lot.

(2) An election shall be held in each district on the second Tuesday in November of each year, excepting the second Tuesday in November next succeeding the organization of the district, at which one director shall be elected. The person receiving the highest number of votes for any office to be filled shall be elected, and shall hold office from the first Tuesday in January next after the election for three years and until a successor is elected and qualified.

(3) In the case of districts organized prior to May 21, 1917, a director shall be elected from each of the three divisions into which the board of directors may have divided the district, or, if the board of directors has so ordered, the directors shall be elected from the district at large.

(4) Within 10 days after receiving the certificate of election provided for in ORS 545.036, the official shall take the official oath and file it in the office of the board of directors. [Amended by 1969 c.669 §13; 1989 c.182 §6]

545.016 [Amended by 1969 c.345 §12; repealed by 1989 c.182 §49]

545.018 Increase in number of directors upon determination of board or petition for election on increase. An irrigation district may increase the number of its board of directors from three to five members. The number of directors may be increased to five whenever, in the judgment of the board of directors, it is necessary or beneficial to the welfare of the district, or whenever a petition of 50 or more qualified electors within the district is filed with the board requesting an election for such purpose. The board shall immediately thereafter order a special election upon the question and proceed according to the provisions of either ORS 545.026 to 545.038 or 545.045 which allows electors to vote by mail. At the same time, two directors shall be elected to serve as such in the event the electors, by a majority of votes cast at the election, increase the number of the board. [Amended by 1959 c.348 §1; 1993 c.771 §8]

545.020 Election on increase; terms of office. If, upon canvass of the returns, as provided in ORS 545.034, there is any change voted, the person receiving the highest number of votes for the office of director at the election shall serve as director of the district at large for a three-year term next succeeding the last previous general election, and the person receiving the next highest number of votes shall serve as director of the district at large for a term of two years next succeeding the last previous general election.

545.022 Redivision of district upon increase in directors; representation of divisions; voting qualifications. Upon increase of the number of directors from three to five, the board shall divide the total acreage of the district that is subject to assessment or charges by the district, into five divisions, each of which contains an equal, or nearly equal, number of acres as may be practicable. In addition, the board shall define and particularly describe division boundaries and make use, in so far as may be desirable, of such natural boundaries as may exist in the district. The divisions shall be numbered first, second, third, fourth and fifth. As the terms of the present members of the board of directors expire, one director who is a resident of Oregon and either a bona fide owner or a shareholder of a bona fide corporate owner of land situated in the division, shall be elected from each division, as representative of that division on the board of directors. Voting for director of each division shall be by qualified electors within the division, but the qualified electors of any district may, by a majority vote, determine that voting for directors shall be by the qualified electors of the entire district. If an elector is an owner in two or more di-

visions and resides in one of them, the elector shall vote in the division of residence; but if an elector is a nonresident of the district, the elector may choose to vote in any one division in which the elector is an owner. When a nonresident landowner chooses to vote in any one division, the landowner shall file a notice of choice of voting division with the secretary of the board of the district where the nonresident landowner chooses to vote. A nonresident landowner's choice to vote in a certain division is permanent and remains permanent until the nonresident landowner's ownership status changes in any way. [Amended by 1953 c.233 §2; 1993 c.771 §9]

545.024 Decrease in number of directors; redivision of district; terms of office. The number of directors may be decreased to three substantially in the same manner as that provided for the increase of directors. Thereafter the board shall redivide the district into three divisions. The existing board shall continue in office until the expiration or sooner termination of their terms, successors being appointed or elected only in divisions where representation will terminate with the term of such director. Only a sufficient number of directors shall thereafter be appointed or elected as shall fulfill the requirements of the decrease in membership of the board, and so that the term of one director will expire each year.

545.026 Elections subsequent to organization of district; notices; board of election; place of holding election; nomination of candidates; certificate of election to sole candidate; ballots. (1) At least 10 days before any election held under the provisions of the Irrigation District Act, subsequent to the organization of any district, the secretary of the board of directors shall cause the publication of a notice of the time, place and purpose of the election in a newspaper that is published or distributed within every county in which either the district or a division of the district is located. The secretary shall also post a general notice of the same in the office of the board specifying the polling places of each precinct.

(2) Prior to the publishing and posting of the notices required in subsection (1) of this section, the board must appoint for each precinct, from the electors thereof, three judges of election, who shall constitute a board of election for the precinct. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct at that hour may appoint the board from the group of electors present. The board of directors must, in its order appointing the board of

election, designate the place within the precinct where the election is to be held. The board may, at the option of the board, designate the district office or any other location within the district as the place where the election is to be held.

(3) Candidates may be nominated for any such election in the same manner as candidates may be nominated at the organization election. All nominations shall be filed with the secretary of the board at least 21 days before the date of the election; and in districts having more than 25 electors, no person shall be elected as a member of the board of directors unless the person has been nominated either by petition or assembly 21 days prior to the election date.

(4) If, after expiration of the date for nomination, it appears that only one qualified candidate has been nominated for the office to be filled, it shall not be necessary to hold an election, and the board of directors shall within 15 days after expiration of the time for filing nominating petitions declare such candidate elected as director. The secretary immediately shall make out and deliver to such person a certificate of election signed by the secretary and authenticated with the seal of the board.

(5) The secretary shall cause the names of all persons nominated to be printed on ballots as candidates for the offices for which they have been nominated. [Amended by 1993 c.771 §10]

545.028 Board of election; powers and duties; ballots not governed by election law. The judges shall elect a chairman of the board who may administer all oaths required in the progress of an election, and appoint judges, if during the progress of an election any judge fails to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of election. Before opening the polls each member of the board must take and subscribe an oath faithfully to perform the duties imposed by law. Any elector of the precinct may administer and certify such oath. The polls shall be open on the day of the election during the hours fixed by ORS 254.325. The provisions of the general election laws of this state concerning the form of ballot shall not apply to the elections held under the Irrigation District Act. [Amended by 1967 c.609 §5; 1979 c.190 §427]

545.030 Conduct of election; challenge and verification of qualifications of elector; counting ballots. (1) Voting may commence as soon as the polls are open and may continue during all the time the polls remain open, and shall be conducted as nearly as practicable in accordance with the general election laws.

(2) A person who offers to vote and claims to be an elector, but fails to provide either evidence of ownership, acreage or other voting authorization, shall be allowed to vote after submitting a sworn statement in accordance with the provisions of ORS 254.407 and 254.409. However, any person voting pursuant to this section shall, in addition to the information required by ORS 254.407, include information in the elector's statement concerning the location of the claimed land and the precise acreage for which the elector is claiming ownership or voting authorization. Upon receipt of the elector's sworn statement, the secretary of the district shall attempt to verify the elector's voting qualifications under the Irrigation District Act.

(3) Any election board member or elector present at the time of voting shall challenge a person offering to vote in any election whom the board member or elector knows or believes to be unqualified as an elector. Any challenge shall be made in accordance with ORS 254.415 (1) and the elector's statement required by ORS 254.415 (2) shall include the location of the claimed land and the precise acreage for which the elector is claiming ownership or voting authorization. Upon receipt of the elector's sworn statement, the secretary of the district shall attempt to verify the elector's voting qualifications according to the provisions of the Irrigation District Act.

(4) As soon as the polls are closed the judges shall open the ballot box and shall commence counting the votes. In no case shall the ballot box be removed from the room in which the election is held until all ballots have been counted. The counting of the ballots shall in all cases be public. The ballots shall be taken out one by one, by the chairman of the board of election, or one of the judges, who shall open them and read aloud the name of each person contained thereon, and the office for which the person is voted. The judges shall keep an accurate account of the votes by tallies in duplicate and the counting shall continue without adjournment until all votes have been counted. [Amended by 1993 c.771 §11]

545.032 Certificate of vote; stringing of ballots; sealing of returns; delivery to secretary of board; recount. As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers containing the tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which the person was voted for, which number shall be written in words and figures at full length. Each certificate shall be signed by all the members of the board of

election. One of the certificates and the tally paper to which it is attached shall be retained by the chairman of the board of election and preserved by the chairman for at least six months. The ballots shall be strung on a cord or thread by the chairman, during the counting, in the order in which they are entered upon the tally lists. The ballots, together with the other certificate and tally papers to which it is attached and a poll list of the voters voting at the election, shall be sealed by the chairman in the presence of the other judges, indorsed "Election returns of [naming the precinct] precinct," and directed to the secretary of the board of directors, and shall be immediately delivered by the chairman, or by other safe and responsible carrier designated by the chairman, to the secretary. The ballots shall be kept unopened for at least six months. If any person is of the opinion that the vote of any precinct has not been correctly counted the person may appear on the day appointed by the board of directors to open and canvass the returns and demand a recount of the precinct that is claimed to have been incorrectly counted.

545.034 Canvass of returns; no rejection for want of form; canvass to be in public. No list, tally paper or certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors shall meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns of each precinct in which polls have been opened have been received, the board of directors shall then and there canvass the returns; but if all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass shall be made in public and by opening the returns and computing the vote of the district for each person voted for, and declaring the result.

545.036 Statement of result; contents; certificate of election; informalities not to invalidate election. (1) The secretary of the board of directors shall, as soon as the result is declared, enter on the records of the board a statement of the result, which statement must show:

- (a) The whole number of votes cast in the district and in each division of the district.
- (b) The names of the persons voted for.
- (c) The office to fill which each person was voted for.
- (d) The number of votes given in each precinct to each person.

(e) The number of votes given for the office of director.

(2) The board of directors shall declare elected the person having the highest number of votes given for each office. The secretary shall immediately make out and deliver to such person a certificate of election, signed by the secretary and authenticated with the seal of the board. No informalities in conducting any election shall invalidate it if the election has been otherwise fairly conducted.

545.038 Contest of election; procedure; appeal. Any election held under the provisions of the Irrigation District Act may be contested by any person owning property within the proposed district liable to assessment. The directors of the district, or in case the election for organization of the district has failed, the county court, shall be made parties defendant. The contest shall be brought in the circuit court of the county where the petition for organization is filed; provided, that if more than one contest is pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try the contest and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of ORS 545.010 to 545.036, and enter its judgment accordingly. The contest must be brought within 60 days after the canvass of the vote and declaration of the result. The right of appeal is given to either party to the record within 30 days after entry of judgment. This appeal shall speedily be heard and determined by the Court of Appeals. After the expiration of the period of 60 days allowed for bringing a contest, no action or suit shall be commenced or maintained or defense made affecting the validity of any election held under the provisions of the Irrigation District Act. [Amended by 1979 c.562 §18]

545.040 Districts organized before May 21, 1917; validity and rights not affected; applicability of provisions; validation of organization or acts of districts. Nothing in chapter 357, Oregon Laws 1917, shall be so construed as to affect the validity of any district organized before May 21, 1917, under the laws of this state, or its rights in or to property, or any of its rights or privileges. But said districts hereby are made subject to the provisions of the Irrigation District Act so far as applicable. The Act of 1917 shall not affect, impair or discharge any contract, obligation, lien, or charge for or upon which such a district was or might become liable or chargeable had not the Act of 1917 been passed; nor shall said Act affect the validity of any bonds which had been issued but not sold; nor shall it affect any action which was

pending as of May 21, 1917. But all irrigation districts organized after May 21, 1917, shall be organized under the provisions of the Irrigation District Act and not otherwise. Where, before May 21, 1917, districts were organized, or bonds authorized, issued or sold or any proceedings undertaken on the theory that under the laws as they then existed, assessments might be assessed, levied or collected as provided in the Irrigation District Act, said organization, authorization, issuance or sale of bonds and all such proceedings hereby are validated, cured and confirmed, and said districts shall, after May 21, 1917, be governed, and all bonds shall be issued, in accordance with the provisions of the Irrigation District Act.

545.045 Annual election of directors; elections by mail authorized; notice of election by mail; eligibility of electors. (1) Except for an election upon formation under ORS 545.012, an irrigation district may conduct an election by mail. The board of directors of the district shall designate by resolution, not later than the 50th day before any election, that an election will be conducted by mail.

(2) To the extent practicable, an election shall be held in each district on the second Tuesday in November of each year, excepting the second Tuesday in November next succeeding the organization of the district, at which one or more directors shall be elected. The person receiving the highest number of votes for any office to be filled shall be elected and shall hold office from the first Tuesday in January next after the election for three years and until a successor is elected and qualified. The qualifications for a director shall be those set forth in ORS 545.014.

(3) An election by mail subsequent to the organization of a district shall be conducted within the district or divisions within a district according to, as nearly as is practicable, the general provisions of ORS 545.026, 545.028, 545.030, 545.032, 545.034 and 545.036.

(4) The secretary of the board of directors for the district shall mail an official ballot with a return identification envelope and a secrecy envelope to an elector, not sooner than the 20th day before the date of the election to be conducted by mail and not later than the 14th day before the election. The secretary shall cause to be placed in or on each return identification envelope a statement to be completed by the elector that says that the elector, under penalty of perjury, swears and affirms that the elector is the sole elector authorized to cast the ballot. In addition, the secretary shall verify that, according to the records of the district as of

the 21st day before the election, the elector is entitled to vote.

(5) When a ballot is mailed to a corporate landowner, a person authorized to act in a representative capacity or landowners under multiple ownership, the secretary shall enclose voting instructions advising the elector that the voting rights of electors for corporate, representative or multiple ownerships are as described in ORS 545.002.

(6) The secretary of the board of directors shall not mail voting materials to an elector who actually acquires ownership of land within the district after the 21st day before the date of an election. When an elector has acquired ownership of land within the district after the 21st day before the date of an election, the secretary shall make voting materials available, and the elector shall vote, only at the district office or at another place designated by the board.

(7) When the elector is an elector described in subsection (6) of this section, the secretary of the board of directors shall, before making voting materials available, require that the elector file with the district a copy of a recorded deed or a memorandum of contract demonstrating the acquisition of land by the elector within the district. The secretary shall then allow the elector to mark the ballot, sign the return identification envelope and return the ballot in the return identification envelope to the secretary.

(8) An elector may obtain a replacement ballot if the original ballot is destroyed, spoiled, lost or not received by the elector, only after the elector signs and presents to the secretary of the board of directors a sworn statement that the ballot was destroyed, spoiled, lost or not received. The secretary shall keep a record of each replacement ballot provided to an elector. Except as provided in subsection (9) of this section, an elector shall obtain a replacement ballot, present the required sworn statement and vote at the district office or another place within the district designated by the board of directors, on the actual date of the election, during the hours designated in ORS 254.325.

(9) Until the fifth calendar day before the election, an elector may obtain a replacement ballot from the secretary of the board of directors, at a place designated by the board, if the original ballot is destroyed, spoiled, lost or not received by the elector and the elector signs and presents to the secretary of the board of directors a sworn statement that the ballot was destroyed, spoiled, lost or not received.

(10) When an elector receives vote by mail materials, the elector shall comply with all written instructions provided, mark the ballot, sign both the return identification envelope and the sworn statement of entitlement to vote and return the marked ballot to the district by placing the ballot in the return identification envelope and either depositing the envelope in the United States mail or delivering the sealed envelope to the district office or another place designated by the district. If the elector returns the ballot by mail, the elector shall provide the postage.

(11) A completed ballot must be received by the district, at the proper place designated by the district, no later than the poll closing time designated in ORS 254.325.

(12) A ballot shall be counted only if:

(a) The ballot was returned in the sealed return identification envelope provided by the district;

(b) The elector signed the return identification envelope; and

(c) The secretary of the board of directors has verified the name of the elector and the elector's ownership of land within the district.

(13) Using the records of the district, the secretary shall verify the name and land ownership of each elector. If the secretary determines that an elector to whom a replacement ballot has been issued has voted more than once, the secretary shall not count any ballot cast by that elector. [1993 c.771 §2]

BOARD OF DIRECTORS; ORGANIZATION, POWERS AND DUTIES

545.062 Organization of board; officers; establishment of meeting dates; collection, custody and disbursement of moneys. (1) On the first Tuesday in January next following their election the board of directors shall meet and organize as a board. In organizing as a board, the directors shall:

(a) Elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board.

(b) Establish the time for regular monthly meetings of the board as required under ORS 545.068.

(c) Establish the date of the next annual meeting of the district.

(d) Establish the date the board shall next meet as a board of equalization under ORS 545.450.

(2) The county treasurer of the county in which the petition for the organization of the

district was filed shall be ex officio treasurer of the district, and any moneys collected by other county treasurers on behalf of the district shall be transmitted to the district treasurer, together with a statement specifying the fund into which it is to be deposited. However, if the secretary of the irrigation district is authorized to collect operation and maintenance assessments or emergency assessments, as provided in this chapter, the secretary shall disburse the same upon orders of the board of directors of the district. Any county treasurer having in the custody or control of the county treasurer funds of an irrigation district shall be responsible for them on the official bond as county treasurer. [Amended by 1969 c.345 §13; 1987 c.835 §1]

545.064 Powers and duties of board as to management of district; water deliveries; water acquired from United States.
 (1) The board shall:

(a) Manage and conduct the business and affairs of the district.

(b) Make and execute all necessary contracts, employ and appoint such agents, officers and employees as may be required, and prescribe their duties.

(c) Establish equitable bylaws, rules and regulations for the distribution and use of water among the landowners.

(d) Generally perform all acts necessary to fully carry out the purposes of the Irrigation District Act.

(2) The board may make available to any member user of the district, on an actual cost basis, any machinery or equipment required for the normal operation of an irrigation district. This machinery or equipment may be used by the member user only for improvement of water distribution or drainage systems and only at the convenience of the district, but may not be used outside the boundaries of the district.

(3) The bylaws, rules and regulations may, in the board's discretion, designate, either generally or particularly, the points of delivery within the district to which the district will make water deliveries for the use and benefit of member users at district expense. Water deliveries so made shall be in full and complete discharge of the district's obligation of water deliveries to member users under the Irrigation District Act.

(4) Any water, the right to use of which is acquired by the district under any contract with the United States, shall be distributed and apportioned by the district in accordance with the Acts of Congress and rules and regulations of the Secretary of the Interior and the provisions of the contract in relation thereto. [Amended by 1965 c.541 §2]

545.065 Conditions required in certain districts before delivering water to additional lands; order; charges and assessments. (1) Notwithstanding any other provisions of this chapter, in any irrigation district that was formed before April 23, 1959, and that lies entirely west of the summit of the Cascade Mountains, the board of directors shall, as a condition precedent to the delivery of water and the charging and assessment in respect to the ownership of any lands within the exterior boundaries of the district that have not been irrigated or charged or assessed, determine:

(a) That the delivery of water to the lands will not result in an inadequate supply of water deliverable to the lands within the district charged or assessed by it at that time; and

(b) That the lands can be served by the facilities of the district without impairing the ability of the district adequately to serve the lands previously charged or assessed.

(2) After making the determination required by subsection (1) of this section the board of directors may, as a condition to the delivery of water and the charging or assessment of the owners of the lands, require that the applicants contract to pay to the district such sums as the board determines. However, these sums shall not exceed the amount the applicants or their predecessors in interest would have been required to pay to the district for charges and assessments for the payment of their pro rata share of all bonds and the interest thereon previously issued, or other indebtedness incurred by the district, had such lands been included in the district when such bonds were issued or such indebtedness incurred. However, there shall be credited to these sums any amount previously paid on behalf of these lands on the bonds or indebtedness.

(3) The charges made under subsection (2) of this section shall be set forth in the order allowing the inclusion of the lands in the district. A certified copy of the order shall be recorded in the same manner as provided by ORS 545.594 and the charges and assessments paid, collected and enforced as provided by that section.

(4) For the purposes of this section the summit of the Cascade Mountains is considered to be a line beginning at the intersection of the western boundary of Hood River County with the northern boundary of the State of Oregon, thence southerly along the western boundaries of the counties of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [1959 c.276 §2; 1993 c.392 §1]

545.066 Compensation and expenses of officers and employees; membership fees in associations. The board shall fix the compensation to be paid to the other officers and employees of the district. The board may pay, from the funds of the district, annual membership fees and assessments to irrigation, drainage or water users' associations. [Amended by 1957 c.128 §1; 1965 c.614 §1; 1971 c.403 §9; 1993 c.771 §12]

545.068 Meetings of board; quorum; public inspection of records. The board of directors shall hold a regular monthly meeting, in its office, the time of which meeting shall be fixed by resolution of the board at the regular annual meeting required by ORS 545.062. Special meetings required for the proper transaction of business may be held when ordered by a majority of the board, by order entered of record, five days' notice of which meeting must be given by the secretary to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified may be transacted at such special meeting, unless all the members are present. All meetings of the board must be public, and a majority of the members shall constitute a quorum for the transaction of business; but on all questions requiring a vote there shall be concurrence of a majority of the board. All records of the board shall be open to public inspection during business hours.

545.070 Contracts; conveyances; suits; judicial knowledge concerning district; audit reports. (1) The board of directors may:

(a) Enter into contracts and take conveyances or other assurances for all property acquired by it under the uses and provisions of the Irrigation District Act, in the name of the irrigation district, to and for the purposes expressed in that Act.

(b) Institute and maintain all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of the Irrigation District Act, or to enforce, maintain, protect or preserve rights, privileges and immunities created by that Act, or acquired in pursuance thereof.

(2) In all courts, acts, suits or proceedings the board may sue, appear and defend in person or by attorneys, in the name of the irrigation district. The court shall in all actions, suits or other proceedings take judicial knowledge of the organization and boundaries of all irrigation districts.

(3) When an audit is made in accordance with the provisions of ORS 297.405 to 297.555, the auditors shall prepare and file with the Secretary of State a certified copy of the audit report. [Amended by 1965 c.332 §6; 1977 c.774 §26; 1979 c.286 §15; 1989 c.182 §7]

545.072 [Repealed by 1989 c.182 §49]

545.074 [Repealed by 1975 c.771 §33]

545.076 Obligations or contracts with United States under Reclamation Act; acquisition of federal lands. (1) For the purpose of acquiring control over government land within the district and of complying with the provisions of the Act of Congress entitled "An act to promote reclamation of arid lands," approved August 11, 1916, the board of directors may make such investigations, and, based thereon, such representations and assurances to the Secretary of the Interior as may be requisite. The board may enter into any obligation or contract with the United States for the construction, operation and maintenance of the necessary works for the delivery and distribution of water under the provisions of the Federal Reclamation Act and the rules and regulations established thereunder, and may contract for the refusal of water service to any lands which are in default in the payment of any assessment levied to carry out any contract between the district and the United States, or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. Or the board may contract with the United States for a water supply or drainage works under any Act of Congress providing for or permitting such contract.

(2) In case a contract is made with the United States, as herein provided, bonds of the district may be deposited with the United States, at 90 percent of their par value, to the amount to be paid by the district to the United States under any such contract. The interest on the bonds, if bearing interest, shall be provided for by assessment and levy, as in the case of other bonds of the district, and regularly paid to the United States to be applied as provided in the contract. If the bonds of the district are not so deposited, the board of directors shall include, as part of any levy or assessment provided for in the Irrigation District Act, an amount sufficient to meet each year all payments accruing under the terms of any such contract.

(3) The board may accept, on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collections of money for or on behalf of the United States in connection with any federal reclamation project, whereupon the district shall be authorized to so act and to assume the duties and liabilities incident to such action, and the board shall have full power to do all things required by the federal statutes enacted in connection therewith, and all things required by the rules and reg-

ulations established by any department of the Federal Government in regard thereto.

545.078 Conveyance of lands to United States. Any property acquired by the district may be conveyed to the United States in so far as the same may be needed by the United States for the construction, operation and maintenance of works for the benefit of the district under any contract that may be entered into with the United States pursuant to ORS 545.076 or 545.080.

545.080 Obligations or contracts with United States under Fact Finders' Act. The board of directors may also enter into any obligation or contract with the United States for the construction, operation and maintenance of the necessary works for the delivery and distribution of water under the provisions of the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes," and in such contract may provide for payment of charges to the United States upon the basis authorized by said Act of Congress, which is commonly known as the "Fact Finders' Act," and under such rules and regulations as may be promulgated by the Bureau of Reclamation of the United States.

545.081 Right to enter upon lands for inspection and maintenance of water works. (1) The board of directors, its officers or an agent or employee of the board of directors may enter upon land of a water user of the district for inspection, maintenance and regulation of ditches, pipelines, gates, pumps or other water works. In the absence of an emergency, the district shall provide adequate and appropriate notice prior to entering upon the land of the water user.

(2) Any person exercising the right of entry granted under this section shall do so with no unnecessary damage to the property of the water user. The landowner shall not be responsible to the person or the district for any injury or damage to the person or district arising out of or occurring by reason of the entry, except when the landowner intentionally causes injury or damage to the person or district.

(3) The right of entry granted by this section shall not constitute a right of entry by the public onto the premises of the landowner. [1993 c.771 §14]

545.082 Right to enter upon and acquire lands and water rights; right of condemnation. (1) The board of directors and its agents and employees shall have the

right to enter upon any land to make surveys, and may locate the necessary irrigation or drainage works and the line for any canals and the necessary branches for the same on any lands which may be deemed best for such location. The board also shall have the right to acquire, by lease, purchase, condemnation or other legal means, all lands, water, water rights, rights of way, easements and other property, including canals and works and the whole of irrigation systems or projects constructed or being constructed by private owners, necessary for the construction, use, supply, maintenance, repair and improvement of any canals and works proposed to be constructed by the board. The board also shall have the right so to acquire lands, and all necessary appurtenances, for reservoirs, and the right to store water in constructed reservoirs, for the storage of needful waters, or for any other purpose reasonably necessary for the purposes of the district.

(2) The property, the right to condemn which hereby is given, shall include property already devoted to public use which is less necessary than the use for which it is required by the district, whether used for irrigation or any other purpose, and any other properties owned by the state or any of its departments or commissions. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon.

545.084 Bond as condition of immediate possession in condemnation by irrigation or drainage district. Prior to any party, officer or agent of an irrigation or drainage district entering upon any land sought to be condemned, there shall be furnished to the landowner a sufficient undertaking, either by surety bond, personal bond, cash or other security, in an amount sufficient to indemnify the landowner for the value of the land sought to be condemned, together with all costs and attorney fees to which the landowner may be entitled. This undertaking shall be conditioned that the district seeking to condemn the land shall pay to the owner all damages, costs and attorney fees that the owner may suffer by reason of the entry, or which may be awarded to the owner by a jury upon a trial of the cause.

545.086 Right to immediate possession in condemnation proceeding. At any time after the board of directors of an irrigation district or board of supervisors of a drainage district has commenced proceedings to acquire title to any land necessary for rights of way, or for construction, alteration, repair or reservoir purposes, the district may enter

into possession of such lands and begin such work as may be necessary to the development of the district.

545.088 Right to condemn for irrigation purposes is a superior right. The use of all water required for the irrigation of the lands of any district formed under the provisions of the Irrigation District Act, together with all water rights and rights to appropriate water, rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of the Irrigation District Act, is declared to be a public use more necessary and more beneficial than any other use, either public or private, to which the water, water rights, rights to appropriate water, lands or other property have been or may be appropriated within the district.

545.090 Title to and rights in property acquired. The legal title to all property acquired under the provisions of ORS 545.082 to 545.088 immediately and by operation of law shall vest in the irrigation district and shall be held by it in trust for and hereby is dedicated and set apart to the uses and purposes set forth in the Irrigation District Act; and the board is authorized and empowered to hold, use, acquire, manage, occupy, possess and dispose of said property as therein provided. The title acquired by an irrigation district under the provisions of ORS 545.082 to 545.088 shall be the fee simple or such lesser estate as shall be designated in the decree of appropriation.

545.092 [Repealed by 1969 c.344 §8]

POWERS OF DISTRICTS

545.102 Furnishing water. An irrigation district may provide for and furnish water for lands not included within the district and for lands within the district but not subject to assessment thereby, upon receiving proper compensation. An irrigation district may acquire, assume or exercise any rights, property, powers or obligations of a contractor with the state under the Carey Act and may be organized in lieu of a water users' association required either by statute or contract. An irrigation district may provide for and furnish water for control of the temperature, humidity or other qualities of the atmospheric conditions pertaining to land otherwise irrigable under this chapter or under ORS chapter 552. [Amended by 1969 c.669 §13a; 1985 c.561 §8]

545.104 Lien on crops for water supplied for irrigation on lands outside district, and within district but not subject to assessment; enforcement. (1) Any person or irrigation district who shall supply water to any person or irrigation district for

irrigation of crops shall, upon complying with subsection (2) of this section, have a lien upon all crops raised by the use of such water for the reasonable value of the water supplied as of the date when the water was first supplied for the crops. The lien shall be a continuing one and shall bind the crops after, as well as before, they have been gathered, and shall be preferred to all other liens or encumbrances upon the crops, except mortgages given to the state for the purchase of seed wheat.

(2) The person or irrigation district so supplying water, within 40 days after the water has been furnished, or within 40 days after the close of the irrigation season, shall file with the county clerk of the county in which the lands, or some part thereof, are situated and where such water has been furnished, a claim containing a true statement of the account due for such water after deducting all just credits and offsets; the date when the water was first supplied; the name of the owner of the crops, or reputed owner, if known; the name of the person to whom the water was furnished; and a description of the lands upon which the crops were grown sufficient for identification. The claim shall be verified by oath of some person having knowledge of the facts and shall be filed with and recorded by the county clerk in the book kept for the purpose of recording liens claimed under ORS 87.035. The record shall be indexed as deeds and other conveyances are required by law to be indexed, and the clerk shall receive the same fees as required by law for recording deeds and other instruments.

(3) The lien may be enforced by a suit in equity, and upon decree of foreclosure the court shall allow a reasonable sum as attorney fees at trial and on appeal; but this remedy shall not be deemed to abrogate any other remedy provided by law for the collection of dues, charges or assessment for water furnished.

(4) If the crop, or any part thereof, has been sold prior to the filing of the lien, or possession delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of, and its identity lost or destroyed, or the crop commingled with its like kind so that it cannot be segregated, and if the purchaser, agent, broker, cooperative agency or other person was notified of the filing of the lien by being furnished with a certified copy thereof, then the lien shall attach to the proceeds of sale remaining in the possession of the purchaser, agent, broker, cooperative agency or other person at the time of the notice, and shall be as effective against the proceeds as against the crop itself. [Amended by 1981 c.897 §60]

545.106 Drainage works; construction authorized; powers of districts; designation of bonds. Any irrigation district, whenever it appears necessary, proper or beneficial to drain any of the lands within the district, whether for the benefit of the lands actually requiring drainage or for the protection of other lands within the district, and whether or not the irrigation works have been actually acquired or constructed, may cause drainage canals and works to be constructed. To this end the district shall in all respects have the same power and authority as is conferred respecting irrigation, and all powers in the Irrigation District Act conferred upon irrigation districts with respect to irrigation shall be construed to include drainage. However, any bonds issued solely for drainage purposes shall be known as "Drainage Bonds of _____ Irrigation District."

545.108 Tolls and charges for water supply; rates; collections and disbursements; basis of charges. (1) For the purpose of defraying the expenses of the organization of the district, and of the care, operation and management, repair and improvement of such portions of the canals and works as are completed and in use, including salaries of officers and employees, the board shall fix charges for irrigation and other public uses, and may by resolution provide for collecting them from all persons using the canals for irrigation and other purposes, and requiring such collection to be made by the secretary of the board and disbursed by the secretary on order of the board.

(2) The board may designate the time and manner of making collections, and may require them to be paid in advance of the delivery of water, and may accept short-term interest-bearing notes for any portion of the charges. In establishing its charges, the board may base such charges upon and may consider the quantity of water to be delivered, the acres of land entitled to benefits from the district, the establishment of uniform or graduated rates and minimum charges, the imposition of additional charges for special services and for small tracts or other properties which require proportionately greater maintenance and operation and other factors the board deems reasonable and appropriate. [Amended by 1991 c.459 §423a]

545.110 Authority of irrigation district to acquire domestic or municipal water works; assumption of obligations; sale of surplus water; impairment of irrigation service forbidden. Any irrigation district, when it appears necessary, proper or beneficial to its inhabitants and whenever it has been authorized by the electors of the district as provided in ORS 545.116, may acquire

by gift, lease, purchase, condemnation or other legal means, domestic and municipal water works or water systems and property incident thereto, including reservoirs, pumps, mains, stations, water, water rights and all appurtenances; and may, as a part of any such transaction of acquisition, assume any outstanding obligations thereon, provided that no right of condemnation shall be granted against any property of any incorporated city. The irrigation district may also construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of, domestic and municipal water works or systems and property, and all appurtenances incident thereto. Any such irrigation district may furnish water for domestic and municipal uses to premises and inhabitants within its district, and in connection therewith may supply, furnish and sell, for the uses mentioned in this section, any surplus water over and above the domestic and municipal needs of its inhabitants, to persons, incorporated communities, water districts, or other municipal or quasi-municipal districts either within or without the district; provided, however, that the power to furnish water for domestic and municipal uses herein conferred will not be exercised in such a manner as to impair the service of the district in furnishing water for irrigation purposes.

545.112 Financing acquisition of water works; contracts with Federal Government; approval by electors. In carrying out and executing the powers conferred in ORS 545.110 to 545.116, the irrigation district may borrow money and issue bonds or other evidences of indebtedness therefor. The district may contract with the United States or any agency thereof for the acquisition, construction, reconstruction, maintenance and operation, or any of them, of a domestic and municipal water system or part thereof. The foregoing powers shall not be exercised in any case without the prior approval of a majority of the electors of the district at an election conducted as declared in ORS 545.116; however, no authority granted before March 5, 1945, to any irrigation district by a majority of the electors thereof at an election held pursuant to any other law shall be limited or otherwise affected by ORS 545.110 to 545.116.

545.114 Water works system to be self-sustaining; payment of indebtedness; rates; separate accounts. (1) The district shall charge consumers for the water furnished in amounts so that the domestic and municipal water system shall be self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition thereof shall be paid from the revenues so collected and from the

proceeds of the disposition of the whole or any part of said water system. The board of directors may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the type of use and according to the amount of water used, and according to whether the property serviced lies within or without the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic and municipal water system. All moneys collected from the operation and disposition of the whole or any part of said water system shall be deposited in a special fund to be designated "Domestic Water Fund," and such moneys shall be disbursed from the fund only in connection with the water system.

545.116 Election concerning acquisition of water works. Whenever the board of directors of an irrigation district has determined by resolution that it is to the best interests of its inhabitants that it exercise any of the powers mentioned in ORS 545.110, including the refunding of outstanding bonds, it shall, by resolution, specify the particular powers it proposes to exercise and order an election to be conducted. Upon such order being entered, an election shall be held by the qualified electors of the district to determine whether or not bonds in any amount designated by the board in such order shall be issued for any purpose necessary or convenient in carrying out the provisions of ORS 545.110 to 545.116, and whether or not the board shall proceed to exercise the powers, or any of them, specified in the resolution. Notice of the election shall be given in the manner provided in ORS 545.192, and the provisions of that section shall apply to all subsequent proceedings under ORS 545.110 to 545.116.

545.118 [Repealed by 1989 c.182 §49]

545.119 District may require water control devices and measuring devices; notice to water user; objections; hearing.

(1) The board of directors may require a water user of the district:

(a) To install and maintain a lockable and controllable headgate or other water control device at a point of delivery of water to the user's property; or

(b) To install a measuring device at a point of delivery as necessary to assist the board in determining the amount of water to be delivered to the user.

(2) When practicable, water control devices and measuring devices under this sec-

tion shall be constructed on property for which the district holds existing easements.

(3) Except when an emergency requires the immediate installation of a water control device to avoid loss of water, the board shall notify a water user in writing that the water user is required by the board under this section to install a water control device or a measuring device. The notice shall be delivered personally or mailed by registered or certified mail, return receipt requested, to the water user. Within the 20-day period immediately following the date of personal delivery or mailing of the notice or at any time before the date of the next regular meeting of the board, the water user may file with the secretary of the board a written objection to the requirement for installation of the device and request a hearing before the board. After the hearing, the board may affirm, amend or rescind its order to the water user for installation of a water control device or measuring device. The decision of the board shall be final. [1993 c.771 §15]

545.120 [Repealed by 1975 c.771 §33]

545.122 [Repealed by 1969 c.344 §8]

545.124 Joinder of districts in acquisition or construction of irrigation or other water use works. (1) Two or more irrigation districts or other water users' organizations, organized under the laws of this state or of any adjoining state, may enter into agreements with each other and with the United States for the joint acquisition, operation, maintenance, management, control, construction, care, repair or improvement of works for diverting, impounding, distributing, irrigating or draining of lands within the boundaries of the districts or other water users' organizations, and, subject to ORS 545.110, may include in such agreements provisions to furnish water for domestic and municipal uses to premises and inhabitants within the boundaries of such districts or other water users' organization.

(2) Agreements entered into pursuant to this section may be evidenced by written contracts executed on behalf of the board of directors or trustees of each district or water users' organization or by resolutions entered upon their minutes. The contracts or certified copies of them and certified copies of the resolutions may be recorded in the office in which deeds are recorded in each county in which is situated any of the land, works or other real property of the district or other water users' organization.

(3) Agreements made pursuant to this section may provide for joint ownership, several ownership, or ownership in common of the property convenient for the joint purposes and may provide for the terms under

which the property or respective portions thereof shall be held.

(4) Any rights or disputes arising out of or from the agreements may be tried before and enforced by any court of competent jurisdiction in this state.

(5) The districts or other water users' organizations joined in any agreement under this section are jointly granted the same power of condemnation as is now possessed by one district or organization alone.

(6) Any meeting of the governing board of a district or other water users' organization of this state, regularly adjourned to or called substantially in the manner for calling special meetings, may be held in another state, in conjunction with the board of a cooperating district or organization of such other state, with the same validity as if held in the office of the district or organization in this state.

(7) In carrying out cooperative action pursuant to this section, between a district or other water users' organization of this state and one of an adjoining state, either district or organization may divert water from either or both states, for impounding in the adjoining state, or for distribution to the land of either or both of the cooperating districts or organizations, or for both such purposes.

(8) So far as necessary for carrying out the purposes of this section, a cooperating district or other water users' organization in an adjoining state may hold title to property in this state, and a cooperating district or organization in this state may hold title to property in the adjoining state.

SALE OF PROPERTY OF DISTRICT

545.142 Property acquired by district; leasing, operation or sale; prohibition of interest therein on part of member of board or employee. Any irrigation district foreclosing or otherwise acquiring any real property may lease, operate or sell the same upon such terms and taking such security for the rental or purchase price as the board of directors may deem advisable. No member of the board of directors or employee of the irrigation district shall purchase or be interested in any contract for purchase of lands sold by the district.

545.144 Authorization of sale of property, excess water, or hydroelectric power. Whenever the board of directors of an irrigation district deems it for the best interests of the district to sell any property owned by the district and not required for district purposes, including excess storage or carrying capacity, surplus water or water rights, or to dispose by contract, lease or

sale of any undeveloped hydroelectric power, it shall adopt and enter in the minutes of its proceedings a resolution stating in substance:

(1) General description of property to be sold.

(2) The amount of such excess capacity and of surplus water owned by such district, and the amount proposed to be sold.

(3) That such sale can be made without impairing the security of the outstanding bonds. [Amended by 1989 c.182 §8]

545.146 Release of lien of bonds; form; acknowledgment by bondholders; copy of release as evidence. The board of directors may then proceed to obtain releases of the lien of all outstanding bonds against the property it is proposed to sell. Release of the lien shall be in writing and acknowledged by the holders of the bonds in substantially the same manner and form as is required in the case of a conveyance of land, but the notary or other officer taking the acknowledgment shall include in the certificate of acknowledgment, or in another appropriate certificate, the fact that the bonds described in the instrument were exhibited to the notary or other officer by the bondholder making the acknowledgment. The acknowledgment shall have the same force and effect as evidence as has the acknowledgment of a conveyance. The certificate of the officer taking the acknowledgment that such bonds were exhibited shall be conclusive evidence of the ownership of the bonds by the person executing and acknowledging the release. The acknowledged release shall be filed with the board and recorded in its minutes. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the original of the acknowledged release.

545.148 Consent of bondholders; notice requiring presentation of objections; implication of consent; hearing of objections by directors. The board may obtain constructive consent and shall publish for at least four consecutive weeks in three newspapers published in Oregon, one of which shall be a newspaper published in the county in which the office of the board of directors is situated, if there is one, a notice describing the property to be released from the lien of outstanding bonds, and requiring all holders of bonds against the district to present in writing their dissent from or objection to release of the lien of all bonds against the property to be sold. Any holders who fail to file objection or dissent within 90 days from the date of the first publication of the notice shall be deemed to have released the lien of their bonds on such property and the board

shall enter its order to the effect that the lien of all such bonds has been released from the property to be sold, for the purpose of such sale. If any objection or dissent is filed within the time required by the notice, the board shall fix a time for a hearing thereon and at such hearing shall determine whether or not the sale can be made without impairing the security of the bonds. If the board determines that the sale can be made, it shall enter its order to that effect and may proceed to sell the property; otherwise it may postpone the sale until the objection is removed.

545.150 Proceeds of sale; special fund; uses of moneys. All proceeds from the sale of property owned by the district and subject to the lien of outstanding bonds shall be held in a special fund to be applied, first, in the construction or reconstruction of such drainage or other works of the district as may be required by the United States as one of the conditions for the purchase of any such property of the district by the United States; and second, as may be agreed between the district and the holders of the bonds, except that in case any of such funds are applied to bonded indebtedness, such application shall be made to payment on the outstanding bonds as their interests may appear. [Amended by 1989 c.182 §9]

545.152 Purchaser rights; power of directors respecting contracts and instruments relating to transfer. No sale of excess storage or carrying capacity or of surplus water or water rights by the board shall give the purchaser any prior or superior right in the water rights, water supplies, reservoir or irrigation works of the district over the rights retained by the district for lands within the district. The board may enter into all such contracts and execute such instruments as may be necessary to transfer such property, including excess storage and carrying capacity, and surplus water and water rights, or the right to the use of the quantity of water so sold or such interest in the reservoir and other irrigation works of the district, and for the joint management and operation of any and all of such works, if they are deemed advantageous to the district, and have been released from the lien of outstanding bonds. [Amended by 1989 c.182 §10]

545.154 [Amended by 1989 c.182 §11; repealed by 1993 c.771 §20]

DEVELOPMENT OF LANDS BY UNITED STATES

545.172 Authority to transfer land to government for development and colonization; repayment of expenditures; levy of assessments; funds; contracts with government. Any irrigation district

organized pursuant to the laws of Oregon may turn over to the Federal Government, or any agency thereof, any lands owned or controlled by the district, for the purpose of development and colonization by the Federal Government or agency thereof, and may levy assessments for repayment to the Federal Government or agency of the sum expended in the development of such lands, with interest thereon not to exceed six percent per annum. The district may also assess the lands to cover repayment to the district of its cost, with interest thereon not to exceed six percent per annum, and shall deposit the same in the "Bond Fund" account, or the "United States Contract Fund" account, or the "Bond and United States Contract Fund" account, as the case may be. The latter assessments shall be in addition to the assessments which may be levied to meet the reclamation charges, interest thereon and maintenance. Irrigation districts may enter into such contracts and assume such obligations with the Federal Government, or any agency thereof, as may be necessary, expedient or desirable to bring about the development of lands in the irrigation district.

545.174 Acquisition of lands from owners; crediting of value on charge against remainder of land. In order to make the lands available for development by the Federal Government, or any agency thereof, as provided in ORS 545.172, any irrigation district may accept from any landowner within the district title to any part of the land of such landowner and allow the landowner credit to the extent of the reasonable value thereof on the reclamation charge against the remainder of the land of the landowner. However, no credit shall be allowed so as to entirely extinguish the reclamation charge against any land in the district, nor shall any land be accepted by the district or credit allowed until a contract has been executed by the district and the Federal Government, or some agency thereof, for development of the lands.

545.176 Proceedings on extension or cancellation of payments due government. Where any irrigation district under contract with the United States has levied any assessment for collection of money payable to the United States under such contract, and the Secretary of the Interior has, by agreement with the board of directors of the district, authorized the extension or cancellation of any payments due the United States by the cancellation of assessments already levied therefor but remaining unpaid, the board of directors shall certify to the tax collector of the county in which the land is located a statement of the year and amounts assessed against each tract for which such

cancellation has been authorized. The tax collector upon receipt of the certificates shall, where the assessment remains unpaid, indorse upon the district's assessment roll, "Corrected under certificate of board of directors," and shall deduct and cancel from the assessment against each such tract the amount of the assessment so authorized to be canceled. However, in cases where delinquent certificates have been issued, and the time for redemption has not expired, such cancellation shall not be made until the district pays the tax collector, for the owner of any such certificate, the amount so canceled, with accrued penalty and interest as provided by law. The payment by the district shall operate to reduce the amount of the certificate proportionately, but shall not otherwise affect it. In cases where delinquent certificates have been issued and the time for redemption has expired, no such cancellation shall be made. [Amended by 1973 c.305 §16]

545.178 Contracts with government for flood control works. (1) Whenever it is determined, by the board of directors of any irrigation district, that it is for the best interest of the district that the flood waters of any stream that enters upon the district or whose waters are used in the irrigating of any of the lands in the district be controlled, the board may enter into a contract with the United States Government, or any of its agencies which may be empowered to construct flood works, contracting and agreeing on the part of the irrigation district:

(a) To provide without cost to the United States all lands, easements and rights of way necessary for such control project or works.

(b) To hold and save harmless the United States or any of its agencies or officers from loss or damage by reason of the construction of such flood control project and works.

(c) To maintain and operate all the works after construction in accordance with any regulations prescribed by the United States or its agencies or officers.

(2) The contract shall not be binding upon the district until it has been approved by the legal voters of the district as provided by ORS 545.192 and 545.194. When the contract has been so executed and approved the board shall carry out fully the provisions of the contract. [Amended by 1965 c.541 §1]

BOND ISSUES, GENERALLY; FUNDS; CONTRACTS WITH UNITED STATES

545.192 Authorization of bonds, including refunding bonds; contract with state or with United States; election; notice. (1) Upon order of the directors duly entered, an election shall be held to determine whether bonds in any amount the board

may deem necessary shall be issued for any purpose necessary or convenient in carrying out the provisions of the Irrigation District Act, including the refunding of outstanding bonds, or whether the right to enter into an obligation or contract with the United States or the State of Oregon, except as provided in ORS 545.194, shall be authorized.

(2) Notice of the election must be given by posting notices in three public places in each election precinct in the district for at least 15 days prior to the election, and also by publication of the notice in some newspaper published in the county where the office of the board of directors is kept, once a week for at least four successive weeks prior to the election. Such notices must specify the time of holding the election and the amount of bonds to be issued; or where contract is to be made with the United States or the State of Oregon and bonds are not to be deposited, the maximum amount of money payable to the United States or the State of Oregon for construction purposes, or in the assumption of liability for district lands for such purposes, exclusive of penalties and interest.

(3) The election shall be held and the result determined and declared in all respects as nearly as practicable in conformity with the provisions of this chapter governing the election of officers. No informalities in conducting such election shall invalidate the same, if the election has been otherwise fairly conducted. The ballot shall contain the words "Bonds—Yes" and "Bonds—No," or "Contract with the United States or the State of Oregon, as appropriate,—Yes" and "Contract with the United States or the State of Oregon, as appropriate,—No," or other words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board shall cause bonds in that amount to be issued, or such portion thereof as may be necessary from time to time. If a majority of the votes cast are "Contract with the United States or the State of Oregon, as appropriate,—Yes," the board may negotiate and execute a contract with the United States or the State of Oregon. If the majority of the votes cast are "Bonds—No," or "Contract with the United States or the State of Oregon, as appropriate,—No," as the case may be, the result of such election shall be so declared and entered of record. [Amended by 1983 c.557 §1]

545.194 Resubmission of questions to electors; contracts not requiring vote. Whenever thereafter the board in its judgment deems it for the best interests of the district that the question of the issuance of bonds, or the question of contract with the United States or the State of Oregon, in any

amount, shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to the electors in the same manner and with like effect as at the previous election. However, an irrigation district may, without a vote of its electorate, enter into a contract with the United States or the State of Oregon which does not create or increase a construction charge indebtedness and which, in the judgment of the district board, is for the best interest of the district, and such contracts heretofore made without a vote of the district electorate are hereby ratified. [Amended by 1983 c.557 §2]

545.196 Bonds; interest included in authorized amount. The bonds may be issued when authorized by the electors so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds. [Amended by 1969 c.694 §25; 1981 c.94 §43; 1983 c.557 §3]

545.198 Bonds securing payments to United States. The contract provisions for the payment of construction charges to the United States, and the bonds securing the payment of the same, if any are issued and deposited, may be of such denomination and may call for the payment of such interest, may provide for such installments and for repayment of the principal at such times, as may be required by the federal laws and as may be agreed upon between the board and the Secretary of the Interior. [Amended by 1981 c.94 §44]

545.200 [Repealed by 1969 c.345 §20]

545.202 Issuance of bonds; cancellation of bonds. (1) Bonds shall be issued in accordance with provisions of ORS 288.515 to 288.600.

(2) Nothing in this section shall inhibit the district from providing for the irrigation or drainage or either alone in units or portions from time to time.

(3) The board may by resolution entered on its records cancel any bonds which may have been voted or issued which have not been sold or deposited as security for funds advanced or to be advanced, and which the state, United States or any other person has no claim to or equity in. After such cancellation, the bonds shall not be sold or otherwise disposed of; they shall be invalid and of no effect; and the board may not replace them without authorization of the electors. [Amended by 1983 c.557 §4]

545.204 Bonds and payments payable from assessments; liability of lands. The bonds and the interest thereon and all payments due or to become due to the United States or the State of Oregon under any contract between the district and the United

States or the State of Oregon, accompanying which bonds of the district have not been deposited with the United States or the State of Oregon, and all obligations for the payment of money authorized and incurred under the Irrigation District Act, shall be general obligations of the district and shall be paid by the revenue derived from the annual assessments upon the land in the district. All the lands in the district shall be and remain liable to be assessed for such payments as provided in the Irrigation District Act and under and subject to the provisions thereof. [Amended by 1983 c.557 §5; 1993 c.97 §17]

545.206 Increase of assessments to meet defaults; property liable for indebtedness; possession of works upon default. In case the amount assessed against any tract of land is not paid, the next assessment against the land in the district shall be so increased as to take care of the default. In addition to the provisions for the payment of bonds and interest by taxation and other provisions of the Irrigation District Act, all the property of the district, including irrigation and other works, shall be liable for the indebtedness of the district. The holder of the bonds, or the United States or the State of Oregon in case contract has been executed by the United States or the State of Oregon, may, in case of default in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the irrigation and other works of the district and operate the same until the amount in default is fully paid. [Amended by 1983 c.557 §6]

545.208 Lien against assessed lands; priority. Any assessment upon land shall be a lien against the property assessed, and such lien for all payments due or to become due under any contract with the United States or the State of Oregon or for the payment of principal or interest of bonds deposited with the United States or the State of Oregon shall be a preferred lien to any assessments for bonds issued subsequent to the date of such contract or the issuance of the bonds deposited with the United States or the State of Oregon. No district assessment lien shall be removed until the assessments are paid with interest and penalties or the property sold for the payment thereof. [Amended by 1983 c.557 §7]

545.210 Sale of lands for delinquency; purchase by district. The district shall appear as a bidder at the sale of any lands for delinquent district or other taxes and may purchase and take title to the lands and dispose of the same like any other purchaser. To protect its assessments, the district, at a

tax sale where there is no other bid for the full amount of the delinquencies, including interest and penalties, shall bid and buy in the land; provided, the district shall never bid or pay a greater sum than the total of all taxes against the land with interest and penalties; and provided further, when purchasing any land at a tax sale, the district shall pay cash for all taxes, interest and penalties including the district taxes, like other purchasers. Such expenditures shall be deemed operating expenses of the district and may be assessed as maintenance charges.

545.212 Bond sinking funds; other funds. (1) The district treasurer or the county treasurer referred to in ORS 545.196, if designated in the bonds, shall keep a "Bond Fund" account or a "United States or the State of Oregon, as appropriate, Contract Fund" account, or a "Bond and United States or the State of Oregon, as appropriate, Contract Fund" account, as the case may be, into which shall be deposited all money arising from the sale of refunding bonds and from assessments and levies until there is sufficient money in the fund to meet the next installment of principal and interest upon bonds of the district and to meet all payments for construction and other purposes to the United States or the State of Oregon. From the fund the district treasurer or the county treasurer shall pay money due as principal and interest on bonds as they mature and the bonds and coupons are presented and as payments to the United States or the State of Oregon fall due.

(2) Money received from the sale of bonds and otherwise for construction or acquisition of works by the district shall be deposited into a "Construction Fund."

(3) All other money received by the district shall be deposited into a fund known as the "General Fund," from which shall be defrayed all obligations of the district other than those in this section described.

(4) The bond and United States or the State of Oregon contract fund accounts shall be devoted to the obligations of the district payable therefrom in the order of the priority of the creation of the obligations. [Amended by 1969 c.694 §26; 1983 c.557 §8]

545.214 Retirement of bonds prior to maturity; call provisions. (1) Whenever, after 10 years from the issuance of bonds, the appropriate fund amounts to \$10,000, the board of directors may direct the district treasurer or county treasurer referred to in ORS 545.196, if designated in the bonds, to pay such an amount of the bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or may call bonds at a pre-

mium of three percent, as provided in subsection (2) of this section.

(2) The board may call for payment and retire before maturity any bonds issued in accordance with ORS 545.192 to 545.202, on paying principal and accrued interest and a premium of three percent upon the principal. Notice of intention so to do shall be given by publication in a newspaper published and regularly circulated in the county in which the district lands lie, at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, with the price to be paid, and the date and place where the same are to be paid. Bonds shall be retired in numerical order. No bonds shall be retired under this provision except on a day when interest is payable by the terms of such bonds and on and after the date named in the published notice. Interest on bonds described therein shall cease after the date named in the published notice.

(3) Notwithstanding anything contained in this section, the board in its discretion may issue any bonds with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board therein, upon publication of notice thereof at least 30 days prior to redemption date, in one issue of a newspaper printed and published in the county where the bonds were issued and in a newspaper published in the City of Portland. [Amended by 1969 c.694 §27]

545.216 Determination of liability of individual tracts for bonded indebtedness; acceptance of bonds and cash in payment. (1) The board of directors of any irrigation district upon application of any owner of a tract of land therein may determine the proportionate part of the liability of such tract for assessment in payment of the outstanding bonded indebtedness. In determining the amount of liability, the board shall take the total amount of bonds outstanding and divide this sum by the total irrigable acres and multiply the quotient by the total irrigable acres in such tract. In any district in which the cost has been divided into units, the board shall determine the proportionate amount of liability in the same manner, using the total amount of bonded indebtedness apportioned to the unit and the irrigable area therein. After determining the total apportioned part of the liability of such tract for the payment of bonded indebtedness, the board of directors may accept the bonds of the district in payment of the total amount of such liability of any tract of land within the district, provided that an additional cash payment of not less than five percent of the

total amount of liability on the tract shall be tendered and paid to the district at the time of delivery of the bonds.

(2) The board of directors may enter into an agreement with the owner of the tract of land making such payment, relieving, except in case of default of the district, said tract of all existing assessments and liens, except warranted indebtedness, state interest, and operation and maintenance. The transaction shall be recorded in the minutes of the board of directors of the district.

(3) Any additional cash payment collected by the board under subsection (1) of this section shall be deposited with the treasurer of the district and placed in a separate fund, which shall be used only for the retirement of bonds. [Amended by 1989 c.182 §12]

545.218 Bonds of districts organized before 1925 with indebtedness of \$50,000; retirement of outstanding bonds as condition of further indebtedness; authorization and sale of refunding bonds; application of proceeds; redemption. (1) No irrigation district organized prior to 1925 which has an outstanding bonded debt in excess of \$50,000, and in which no actual construction of irrigation works has been commenced, shall ever create a further bonded debt, except in the issuance of refunding bonds, until the bonds now outstanding and bonds issued to refund the same have been called and redeemed, or further refunded as a part of new proceedings taken to finance the construction of irrigation works.

(2) The district may issue refunding bonds bearing not to exceed six percent per annum interest to redeem or replace any of its bonds which have matured or which hereafter shall mature. The district shall sell such bonds for not less than par value, pursuant to notice published for at least two weeks in a newspaper printed and published within the county in which the district is located. The proceeds of the sale shall be applied in payment of the matured or maturing bonds. If the district receives no qualifying bids for the refunding bonds they may be exchanged on a par-for-par basis for the matured or maturing bonds. Such refunding bonds shall have such serial maturity dates, not exceeding 20 years from issue date, as the board of directors shall specify; but the board, in its discretion, may issue the bonds with optional dates of redemption, providing for their calling and retirement upon such interest payment dates as are indicated therein. Notice of intention to redeem the bonds shall consist of a notice thereof from the secretary of the district published within the county in which the district is located, or of a direct notice from the secretary to

the owner of the bonds, if known. The issuance of bonds for such refunding purposes shall not require an election of the voters of the district but shall be done pursuant to a resolution of the board of directors.

545.220 Validation of obligations for refunding, or obtaining loans from Reconstruction Finance Corporation. All bonds or other obligations issued before November 15, 1935, or bonds authorized before that date and issued within one year after that date, by irrigation districts, for the purpose of refinancing or refunding prior outstanding bond issues and other obligations of such irrigation districts, or for the purpose of obtaining loans from the Reconstruction Finance Corporation under the provisions of section 36, part 4 of the Emergency Farm Mortgage Act of 1933, as amended, relating to agricultural projects, where the proceedings for the issuance of such bonds have been adjudicated and confirmed under the provisions of ORS 548.105 to 548.115, hereby are validated; and all bonds so issued and approved and all bonds authorized before November 15, 1935, and issued within one year after that date, and the proceedings therefor so confirmed and approved under the provisions of ORS 548.105 to 548.115, hereby are declared to be legal and a binding obligation upon such irrigation district for all purposes.

545.222 Bonds sought to be validated by judicial decree. All bond issues voted before June 5, 1933, by any irrigation district of this state, for the purpose of refunding outstanding warrants, or other purposes, and for which bonds an action was thereafter instituted in any circuit court of this state for confirmation and validation, and for which the circuit court entered a decree confirming and validating the same, from which no appeal was taken to the Supreme Court or the Court of Appeals, hereby are validated and declared legal and binding obligations of the district. [Amended by 1979 c.562 §19]

545.224 Investment of surplus funds in federal or state bonds. The board of directors of every irrigation district, whenever there are any surplus funds not necessary for the payment of current obligations in any construction fund, operation and maintenance fund, sinking fund, United States Contract Fund, State of Oregon Contract Fund, emergency fund, or any other fund of the district, may invest the same in bonds of the United States of America or the State of Oregon. The district may hold and dispose of the bonds at such times as may be necessary to the conduct of the business and affairs of the district. [Amended by 1983 c.557 §9]

545.226 [Repealed by 1989 c.182 §49]

545.228 Application of ORS 545.230 and 545.232. ORS 545.230 and 545.232 apply to an election to authorize the issuance of bonds by a district formed pursuant to a petition filed under ORS 545.004 (7). [1967 c.503 §4; 1993 c.771 §18]

545.230 Petition for election on authorization and issuance of bonds. An election shall be held to determine whether bonds of an irrigation district shall be authorized and issued as provided by ORS 545.228 to 545.236, if a petition requesting such an election, signed by all of the owners of all lands within the district, is filed with the board of directors. The petition shall state the amount of bonds to be authorized, the purposes for which the bonds are to be issued and the maximum time in which they may mature. Upon the filing of a petition under this section, the board shall proceed to call an election which shall be held within 20 days after the filing of the petition. [1967 c.503 §5]

545.232 Holding election; notice. The election called pursuant to a petition filed under ORS 545.230 shall be held and the results determined and declared as provided by ORS 545.192 and 545.194, except that:

(1) The maximum time in which the bonds may mature shall be submitted to the voters;

(2) The notice of the election need not be posted but it shall be published at least once, not more than 10 nor less than three days prior to the election; and

(3) The form of the proposition on the ballot shall be set forth in the notice of the election. [1967 c.503 §6]

545.234 Bonds; maturities; reserves; interest; trustees. (1) The provisions of the Irrigation District Act apply to bonds authorized pursuant to ORS 545.230 and 545.232, except as otherwise provided by this section.

(2) The board of directors by resolution authorizing the issuance of all or part of a bond authorization may provide:

(a) The manner of the sale, public or otherwise, the denominations, the premiums if any for redemption prior to maturity, and whether or not the bonds shall be registrable as to principal or and principal and interest;

(b) For the setting aside and maintaining of reserves to secure the payment of the principal of the bonds and interest thereon, and reserves to maintain, equip, repair, renew, renovate and replace the improvements, facilities and equipment of the district;

(c) For the issuance, under proper terms and conditions, of additional or refunding

bonds on a parity with the bonds being issued;

(d) For the creation of necessary funds and accounts;

(e) All other terms, conditions, covenants and protective features safeguarding the payment of the bonds as are found necessary by the board.

(3) The bonds may be sold at not less than 90 percent of face value, and may bear interest, evidenced by coupons, at a rate of not to exceed six percent per annum.

(4) The board may select a trustee for the owners and holders of the bonds, and also a trustee to safeguard and disburse the proceeds of the sale of any such bonds, and the rights, duties, powers and obligations of the trustee or trustees shall be fixed by the board. [1967 c.503 §7]

545.236 Bonds and coupons to be negotiable instruments. Any bearer bonds and coupons attached thereto issued under ORS 545.234 shall be fully negotiable instruments under the laws of the State of Oregon. [1967 c.503 §8]

ALTERNATIVE METHOD OF ISSUING BONDS OR REFUNDING INDEBTEDNESS

545.242 Refunding bonds; procedure. Any irrigation district desiring to refund its outstanding indebtedness or issue bonds for any purpose may in lieu of other procedures provided by law elect to adopt the procedure provided by ORS 545.242 to 545.276. Before any election may be made to issue bonds under those sections the board of directors shall enter a resolution stating for what purpose the bonds are to be issued and, if the bonds are to be used for refunding indebtedness, describing the bonds and indebtedness to be retired by the refunding bonds or from the proceeds of the sale thereof. [Amended by 1989 c.182 §13]

545.244 Determination of liability for taxes to pay bonds, on basis of irrigable area or benefits. After bonds have been authorized under ORS 545.242 to 545.276 but before they are offered for sale, the board of directors shall make a preliminary determination of the area and description of irrigable land in each legal subdivision or other described tract if held in separate ownership within the district and the proportionate share or liability of each tract for taxation in payment of the total amount of the bonds issued. This determination shall be for the purpose of fixing the irrigable area or, if the assessment is based on benefits, the total benefits accruing from the existing or proposed improvement to each ownership and tract, and of fixing the assessment in pro-

portion to such benefits, or irrigable area. The determination of benefits or irrigable area shall include a description of the land, name of the ownership, number or irrigable acres of each tract, proposed assessment against each tract, and such other data as may be necessary to identify the land and ownership.

545.246 Amounts paid to owners for property or rights. In fixing the proportionate part of the cost of reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights, or other property or rights required by the district, shall be shown in a separate column and deducted from the amount that the owner would otherwise be required to pay, and assessments for the payment of the cost of such reclamation and interest thereon made accordingly.

545.248 Notice of determination; publication; contents. The board of directors shall give notice by publication of the preliminary determination provided for in ORS 545.244, once a week for four successive weeks in a newspaper published in each county in which the district lands lie, and also by posting a notice in three public places in the district at least 30 days prior to the date of hearing. The notice shall state:

(1) The time and place for hearing objections or remonstrances and entertaining suggestions as to the proposed assessment;

(2) The proposed determination of the benefits accruing from the existing or proposed improvement;

(3) The place where the record of such determination may be inspected; and

(4) That upon conclusion of the hearing the board will by resolution determine the proper assessment to be charged against each legal subdivision or other described tract if held in separate ownership and the total benefit accruing to each such legal subdivision or other described tract if held in separate ownership, from the existing or proposed improvement, but excluding from such determination of benefits any benefits to accrue from the future operation and maintenance of the improvement. [Amended by 1989 c.182 §14]

545.250 Equalization of assessments; hearings. The board of directors shall sit as a board of equalization at the time and place stated in the notice, and shall continue in session from day to day as long as may be necessary to hear and determine any objections, remonstrances or suggestions by any interested persons to the proposed assessment and apportionment or to the proposed determination of the total benefits accruing. The board shall change its assessments and apportionment or determination

of the total benefits accruing as it shall find legal and proper in any respect and in such manner as to make the same just and in accordance with the facts. The secretary of the board shall be present during these sessions and shall note all changes made in such assessments or determination of total benefits.

545.252 Order determining benefits; order of assessment; "benefit surplus" defined. (1) Upon completion of the hearing, the board of directors shall enter an order approving and adopting such determination of benefits but excluding any benefits to accrue from the future operation and maintenance of the improvement and fixing the proposed assessments and the amount thereof against, and the total of the amount of benefits accruing to, each legal subdivision or other tract if held in separate ownership, resulting from the existing or proposed improvement.

(2) The order issued under subsection (1) of this section shall describe:

(a) The lands assessed;

(b) The name of the record owner thereof (but an error in the name of the owner shall not affect the validity of such action);

(c) The total amount of tax, which shall be the proper pro rata of the lands based upon such total proposed assessment;

(d) The installments in which the tax may be paid;

(e) The rate of interest it shall bear;

(f) The amount of the total benefit which will accrue to each legal subdivision or other described tract if held in separate ownership;

(g) The amount of benefit surplus; and

(h) Any other matters pertinent or necessary or deemed expedient by the board of directors.

(3) As used in subsection (2) of this section, "benefit surplus" means the excess of the benefits accruing to each legal subdivision or other described tract, over and above the assessment against each. [Amended by 1989 c.182 §15]

545.254 Notice of proceedings; appeal to circuit court; notice and summons. (1) All persons interested in any lands within the district shall be charged with notice of all proceedings at the hearing and subsequent thereto. Any person or landowner aggrieved by such action of the board of directors shall have the right within 30 days from the entry of such resolution to appeal to the circuit court of the county in which the lands lie. If the district lies in two or more counties and an appeal is taken to the circuit court of each county, then all such appeals shall be consolidated in one suit for

trial, and if the counties lie in more than one judicial district, the presiding judge of the Court of Appeals shall direct in which judicial district the appeal shall be tried. The appeals shall be taken by giving a notice in writing and leaving a true copy thereof with the secretary of the irrigation district.

(2) Upon the expiration of the time for service and filing of such notices of appeal to the circuit court, in case an appeal is taken, the circuit judge of the county in which the case is to be tried shall make an order directing the trial court administrator or trial court clerk to have published once a week for four consecutive weeks in each county in which the lands in the district are situated, a notice and summons reading substantially as follows:

In the Circuit Court of _____
 County, State of Oregon
 In the matter of Bonds and _____ Notice
 Assessments of _____
 Irrigation District.

All persons owning or claiming to own any lands within the above named irrigation district are notified that appeal has been made to the above entitled court from that certain resolution made and entered by the board of directors of the irrigation district on the _____ day of _____, 19____, wherein an assessment was made against certain lands in the district and described in the resolution together with a determination of the benefits accruing to such lands, and that bonds may be issued in the sum of _____ by said district. All persons owning lands within the district affected by the assessment or bonds are required to appear before this court on or before the _____ day of _____, 19____, and show cause, if any, why the assessment or determination of benefits should not be approved and bonds issued.

Trial Court Administrator/Clerk for
 _____ County.

(3) The date required for appearance in the cause shall be a date to be fixed by the court, adjudged reasonable, and not less than 30 days from the date of the first publication of the notice. The proceeding shall be a proceeding in rem. All persons owning or claiming any interest in lands in the irrigation district shall appear and show cause why the assessment or determination of benefits should not be ratified and approved, and shall be bound by all subsequent decrees and orders made in the cause, without further notice. [Amended by 1979 c.562 §20; 1989 c.182 §16]

545.256 Pleadings; trial; appeal; finality of assessment order. (1) The appellant

and all persons appearing shall make a statement in writing of the grounds of appeal, and no further pleadings shall be necessary. The cause shall be tried in one action by the circuit court as an action not triable by right to a jury.

(2) Upon the entry of final judgment any person aggrieved by the judgment may appeal to the Court of Appeals in the manner provided in other cases in equity. Notice of appeal shall be served on those appearing in the circuit court or their attorneys. The cause shall be tried de novo by the Court of Appeals as expeditiously as possible after such appeal is perfected. Upon the effective date of decision of the Court of Appeals, the circuit court shall enter such judgment as is directed by the Court of Appeals.

(3) If the resolution of the board of directors is affirmed it shall be deemed an assessment against all the lands described therein for the amount of the assessment and payable at the times therein specified, as well as a final determination of the total benefits accruing to the parcels of land described therein from the existing or proposed improvements. If the resolution is modified in any respect the court shall specify the proper resolution to be entered, which shall be entered accordingly. If no appeal is taken from any such resolution, it shall become final. [Amended by 1979 c.284 §167; 1981 c.178 §16]

545.258 Assessment installments. When amortizing bonds are issued as authorized by ORS 545.260, the installments in which the tax is to be paid shall be in fixed amounts including both principal and interest, and only the principal portions of the installments shall be charged against total benefits in determining benefit surplus, as defined in ORS 545.252.

545.260 Bonds; issuance; purposes; form; amortization; maturities; negotiability; numbering; interest; denomination; registration; amount maturing annually; retirement. (1) When the assessments have become final, the board of directors may authorize the issuance of bonds to refund the indebtedness of the district, including warrant indebtedness, bond indebtedness and interest certificates of indebtedness issued to the state, or for the construction or acquisition of irrigation works. The bonds may be issued either in serial form or in a form providing for the annual payment of interest and principal in a single amount represented by coupons, provided that the amortization of both interest and principal on such refunding bonds must be accomplished within a period of not to exceed 50 years after date. All refunding bonds issued under ORS 545.242 to 545.276 shall be negotiable in form. If in serial form

the bonds issued shall be numbered consecutively, commencing with number 1. They shall mature serially in annual amounts so as to be approximately equal, principal and interest, in not less than five years nor more than 50 years after date of issue, as the board of directors may have determined, or, in case the board of directors deemed it advisable to submit the question of maturities at the bond election, then as the electors determined.

(2) The bonds shall bear interest at a rate determined by the board of directors, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons which may be the office of the county treasurer referred to in ORS 545.196. Except as otherwise provided by ORS 545.242 to 545.276, the bonds shall be each of the denomination of not less than \$100 nor more than \$1,000; shall be signed by the president and secretary; the seal of the board of directors shall be affixed thereto; and each bond shall bear on the back the registration certificate of the county treasurer, who shall sign as county treasurer and as ex officio treasurer of the district. Coupons for interest shall be attached to each bond and shall be signed with the engraved facsimile signature of the secretary.

(3) The county treasurer and the secretary of the district shall register the bonds in books kept in their offices for that purpose, and therein shall note the number, date of issuance and sale, amount of bond, time of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to provide that any bond of the district shall bear a registration certificate by the secretary.

(4) In no event shall the total sum of bonds maturing in any one year, together with the interest due, exceed the total of the maximum annual assessment for the retirement of the bonds and the payment of interest. The board of directors may call for payment and retire before maturity any bond issued in accordance with ORS 545.242 to 545.276, on the payment of the principal. [Amended by 1969 c.694 §28; 1981 c.94 §45; 1989 c.182 §17]

545.262 Recording of assessments; bond lien docket; payment by bonds or coupons; interest on unpaid assessments; lien on land; priority. (1) Upon delivery of the bonds, the secretary of the irrigation district shall furnish to the county clerk of each county in which lands of the district are situated, a duly certified copy of the resolution of assessment, which resolution shall be recorded in the records of deeds of the

county. The county clerk shall record in a book, to be by the county clerk provided for that purpose and which shall be deemed a bond lien docket of the irrigation district for the lands situated in that county, the matters contained in the resolution, by setting forth, in separate columns, the description of the lands assessed, the total amount of the assessment, the yearly installments, when the same shall become due, and the rate of interest any such installments shall bear, the amount of the total benefit which shall accrue to each legal subdivision or other described tract if held in separate ownership, and the amount of the excess of the benefits accruing to each such subdivision or other described tract over and above the assessment against each of the same, which excess shall be known as "the benefit surplus."

(2) The bond lien docket shall stand thereafter as a docket of liens and shall constitute the total assessment against the lands by reason of the bonds. The sum shall not be increased or added to by subsequent assessments because of any delinquency of the owner of any other tract or parcel of land in the payment of the assessment of the owner, except as provided in ORS 545.266. The bond lien docket shall also stand thereafter as conclusive evidence of the total benefits accruing to each legal subdivision or other described tract held in separate ownership, by reason of the improvement.

(3) The tax collector shall receive any past-due bond of the irrigation district or any past-due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying any installment which is due or past due and appearing on the bond lien docket. All unpaid assessments therein docketed except installments designed for the payment of amortizing bonds shall bear interest at the rate of six percent per annum until the assessments and interest are paid. All unpaid assessments and interest shall remain a lien on each tract or parcel of land in favor of the irrigation district, and shall have priority over all other liens and encumbrances whatsoever, except the liens of state, county and municipal taxes.

545.264 Payment of assessment; relief from further assessment. Any time after issuance of the bonds any landowner may relieve the land of the landowner from payment of the principal and interest assessed against the landowner by securing from the county clerk, on a form to be provided by the county clerk for that purpose, a certificate showing the lands assessed and the amount due thereon. The certificate shall be signed and certified by the clerk under the seal of office. Upon its presentation to the county treasurer and payment to the county treas-

urer of the amount due, either in cash or matured or unmatured bonds of the district, the treasurer shall receipt for payment of the sum, on the certificate. Upon presentation by the owner of the certificate so receipted to the county clerk, the clerk shall insert in a column of the bond lien docket provided for that purpose, a notation showing the payment and satisfaction of the assessment in full with interest. Upon such payment of the lien on any tract or parcel of land, the tract or parcel shall thereafter forever be relieved from taxation for the payment of irrigation bonds issued prior to the date of such payment, except for such taxation as may be levied by the board of directors of the irrigation district for an emergency fund, not exceeding the amount specified in ORS 545.266.

545.266 Five-year additional assessment; emergency assessments; emergency fund. (1) In addition to the assessments provided for in ORS 545.242 to 545.262, the board of directors, during the first five years after the determination of assessments, shall levy against each legal subdivision or other tract if held in separate ownership within the district, as set forth in the bond lien docket, an annual assessment in an amount equal to 25 percent of the regular yearly installment of the assessment for principal and interest.

(2) Thereafter, whenever there is any default in the payment of any assessment levied by the district, the board shall levy against each such legal subdivision or other tract in the district, an assessment in an amount not to exceed 25 percent of the regular yearly installment of the assessment for principal and interest for that year, as shown in the bond lien docket. The latter assessment shall be known as the "Emergency Assessment," and shall be levied and collected at the time provided in ORS 545.432 to 545.440, 545.448, 545.452 and 545.454. All moneys received from such assessment shall be placed by the county treasurer in a special fund to be known as the "Emergency Fund."

(3) The emergency fund shall be a revolving fund and shall be used only for purchase and foreclosure of delinquent tax certificates, or for temporarily supplementing the bond fund in case of deficiencies due to accident, delinquency or other contingency. The emergency fund shall be disbursed by the treasurer upon order of the board of directors.

(4) The emergency assessment shall be levied against each legal subdivision or other described tract of land held in separate ownership within the district as shown on the bond lien docket, notwithstanding the same may have been relieved from taxation for the

payment of irrigation bonds in accordance with the provisions of ORS 545.264. In no event shall the amount of the emergency assessment for any year levied against any such legal subdivision or other tract exceed 25 percent of the amount of the assessment of that year levied against such legal subdivision or other tract for bond interest and principal, or which would have been levied against the same for those purposes had the same not been relieved from taxes as aforesaid. Nor shall the aggregate net amount levied against any such legal subdivision or other tract exceed the benefit surplus of such legal subdivision or other tract as shown by the bond lien docket. The net amount of every such assessment shall be determined by discounting the sum so levied at the rate of six percent per annum for the time that has elapsed between the date of the final resolution determining total benefits and the date of the levy of the assessment.

(5) The net amount of all assessments levied against any legal subdivision or other tract under this section shall be duly entered in an appropriate column in the bond lien docket, and each such net amount when paid shall be deducted from the amount of the benefit surplus or balance thereof of the legal subdivision or other tract affected.

545.268 Entry on assessment roll; lien on land; collection; disposal of moneys collected; liability of land sold for taxes; applicability of law to bonds heretofore issued. (1) The county clerk shall furnish to the county assessor not later than December 1 of each year a copy of all assessments against property in the irrigation district in the county of the county clerk shown on the bond lien docket, which shall become due and payable during the coming calendar year. The assessor shall enter such assessments on the assessment roll in the same manner as other assessments of the district are entered. The assessments so entered shall continue as a lien against the tracts and parcels of land described therein and shall be collected in the same manner and at the same time that other taxes are collected. If unpaid, the procedure for their collection shall be the same as that provided by law for the collection of irrigation taxes and assessments. Except as otherwise provided, all moneys paid to the county treasurer on any assessments provided by ORS 545.242 to 545.276, and all moneys collected by the tax collector in any county on such assessments, shall be paid to the county treasurer and kept by the county treasurer in a special bond fund for the payment of the principal and interest on bonds as the same become due. The purchaser of any tracts or parcels of land at a sale for any delinquent state,

county or municipal taxes, or irrigation assessments, shall take the same free and clear of any assessment which has been entered upon the assessment roll pursuant to this section and which has been included in the amount for which the tract was sold, but the lien of such portion of the assessment created by ORS 545.262 as has not been so entered and included, as herein provided, shall not in any manner be affected by the sale, and every purchaser shall take such lands subject to that lien.

(2) None of the provisions embodied in ORS 545.242 to 545.276 by virtue of the amendments made by chapter 162, Oregon Laws 1933, shall apply to or in any way affect any bonds theretofore authorized or issued by any irrigation district, or any assessments theretofore levied for the payment thereof.

545.270 Retirement of bonds before maturity. (1) Notwithstanding anything contained in ORS 545.242 to 545.276, the board of directors of any irrigation district may call for payment and retire before maturity any bonds issued in accordance with ORS 545.242 to 545.276. Whenever sufficient funds are available therefor in the special bond fund, the board may direct the treasurer to pay such an amount of bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or call bonds for par. The par value of all amortization bonds shall be deemed to be the present worth of the unpaid installments thereon, discounted to the date they are called at the rate of seven percent per annum. Payment may be made at the office of the county treasurer referred to in ORS 545.196.

(2) Notice of intention to call in any bonds shall be given by the board of directors by publication in a newspaper published and regularly circulated in the county in which the district lands lie, at least once each week for four successive weeks beginning not less than 90 days prior to any interest payment period. The notice shall state the number and amount of bonds to be retired, the price to be paid, and the date when and place where the bonds are to be paid.

(3) The bonds so called shall be retired in numerical order and not otherwise. No bond shall be retired under this section except on a day when interest is payable under the terms of such bond and on and after the date given in the published notice. The interest on bonds described therein shall cease after the date named in the published notice, and notice published as provided by subsection (2) of this section. [Amended by 1969 c.694 §29]

545.272 Sale of land for delinquent assessments; district as purchaser; payment of proceeds into emergency fund; purchase price paid by district. The district shall appear as a bidder at the sale of any lands for delinquent assessments made under ORS 545.242 to 545.276, and may purchase and take title to the lands and dispose of them like any other purchaser. On any sale by the district the proceeds from such sale, after the payment of expenses thereof, shall be paid into the emergency fund. To protect its assessment the district at a tax sale where there is no other bidder for the full amount of the delinquency, including interest and penalties, shall bid and buy in the land; provided, the district shall never bid or pay a greater sum than the total of all assessments levied under ORS 545.242 to 545.276 with interest and penalties, and delinquent general taxes.

545.274 Exchange of refunding bonds for outstanding indebtedness; exchange of interest certificates for bonds. The board of directors of any irrigation district proceeding under ORS 545.242 to 545.276, desiring to issue refunding bonds to replace or in a satisfaction or discharge of any outstanding indebtedness, may, instead of retiring such outstanding indebtedness from the proceeds of the sale of such bonds, exchange the refunding bonds for the outstanding indebtedness and in full compromise, satisfaction and discharge thereof, and shall issue the bonds in such denominations and to the several holders thereof as may be found necessary and expedient in the retirement of such outstanding indebtedness. The State Treasurer, on behalf of the state, may negotiate and arrange terms for exchange of interest certificates of indebtedness issued to the state by the district for district refunding bonds on the same terms as such bonds are accepted by other creditors. [Amended by 1989 c.182 §18]

545.276 Judgment of confirmation. Bonds authorized or issued under ORS 545.242 to 545.276 shall be subject to judgment of confirmation and may be confirmed in the manner provided by ORS 548.105 to 548.115.

545.278 Declaration of intent to dispose of bonds; resolution; notice of sale; publication. Before selling or otherwise disposing of any bonds as provided for in ORS 545.242 to 545.276, the board of directors shall at a meeting declare its intention of selling or otherwise disposing of the same and shall cause the resolution to be entered on the minutes, and notice of sale or other disposition to be given by publication at least once a week for four consecutive weeks in three newspapers published in Oregon, one

of which shall be a newspaper published in the county in which the office of the board of directors is situated.

545.280 Consent to refunding of indebtedness, by percentage of known creditors. (1) Before authorizing the issuance of bonds under ORS 545.242 to 545.276, the board of directors shall require that the known holders or their representatives of not less than 80 percent of the total in amount of all evidences of indebtedness, whether warrants, bonds or certificates, which are to be retired or refunded, shall submit to the board of directors for its acceptance an offer:

(a) To deliver and surrender up all such evidences of indebtedness in exchange for bonds or cash, or both, not exceeding the maximum amount of the total assessment, or

(b) To accept in full payment of such outstanding indebtedness a sum of money or refunding bonds, or both, representing the proportion which the total proposed refunding payment bears to such total outstanding indebtedness proposed to be refunded, based on the par value of the proposed refunding payment; such creditors agreeing to absorb the loss between the amount of the total outstanding indebtedness and the amount of the refunding payment, and to receive the refunding bonds or cash, or both, in full payment, satisfaction and discharge of such outstanding indebtedness; and such creditors further agreeing to make such proper pro rata distribution of the refunding payment as shall be required to retire and discharge the total outstanding indebtedness proposed to be refunded.

(2) The offer shall be in writing and shall be irrevocable when once submitted to the board of directors until after the board of directors has had the opportunity to authorize the issuance, sale and delivery of refunding bonds to replace and discharge the outstanding indebtedness on acceptance of such offer. Any litigation which is sought to or which will restrain or prevent the board of directors from issuing and delivering the refunding bonds shall not subject the offer to revocation until after the same is concluded and the board of directors has a reasonable time thereafter in which to issue, sell and deliver the refunding bonds. The offer shall be deemed accepted by the board of directors upon such delivery. [Amended by 1989 c.182 §19]

545.282 Obtaining constructive consent of unknown or dissenting creditors; petition for. For the purpose of obtaining the constructive consent of the unknown holders of the evidences of indebtedness, and of holders who have not given their consent in writing, the board of directors shall file in the circuit court of the county in which is

located the office of the irrigation district a petition in rem, verified by the oath of the president or secretary of the district, in which shall be set forth the plan adopted by the district for retiring or refunding such evidences of indebtedness. The petition shall further recite what percentage in amount (which percentage shall be not less than 80 percent, of the holders of the evidences of indebtedness to be retired or refunded) have filed their written consent to the proposed plan; and shall further set forth what steps have been taken to attain the consent of all nonconsenting holders.

545.284 Notice of court proceeding to obtain constructive consent; failure to file objection imputes consent. (1) Upon presentation of the petition to the judge of the circuit court, the judge shall authorize the district to publish, and the district shall cause to be published, for at least four consecutive weeks in three newspapers published within Oregon, to be designated by the court, and one of which shall be published in the county in which the office of the board of directors is situated, a notice describing the substance of the terms of settlement under which the evidences of indebtedness of the district are to be surrendered, refunded, satisfied, compromised, exchanged or discharged under the provisions of ORS 545.242 to 545.276.

(2) The notice shall contain a general description of the evidences of indebtedness to be refunded and retired, the amount thereof, and a general description of the refunding bonds to be issued; shall require all holders of such evidences of indebtedness to file in the proceeding their written dissent from, or objection to, the proposed plan of settlement; and shall state that if such dissent in writing is not filed in the court within 90 days from the date of the first publication of the notice, the holders failing to file dissent or objection shall be deemed to have consented to the refunding, compromise or settlement of the indebtedness under the terms and conditions set forth in the notice.

(3) After 90 days from the date of the first publication of the notice, the holders failing to file their objections and protests with the court shall be deemed to have consented to the refunding, compromise or settlement of the indebtedness under the terms set forth in the notice. Such failure shall be deemed the equivalent of the offer in writing signed by known consenting holders. [Amended by 1989 c.182 §20]

545.286 Hearing on petition; decree; trustee. (1) After the expiration of 90 days from the date of the first publication of the notice, the district shall file in the proceed-

ing in the circuit court its verified return of its acts made under the order of the court, attaching affidavits of the publication of the notice in three newspapers. Thereupon the court shall forthwith hear the cause and shall enter a decree adjudging that all the owners and holders of the evidences of indebtedness to be retired or refunded by the plan of the district, who have not within 90 days after the date of the first publication of the notice filed in the court their written dissent and objections to the proceedings, have consented that their evidences of indebtedness be retired or refunded under the proposed plan.

(2) In the decree the court shall direct the officers of the district to deposit with the county treasurer of the county in which the district is headquartered, as trustee for the persons entitled thereto, the pro rata part of the cash or refunding bonds, or both, which, under the settlement, belongs to the holders of the evidences of indebtedness whose consent was obtained by the court proceedings. The decree shall further provide that upon such payment to the county treasurer as trustee, the evidences of indebtedness shall be deemed paid and no longer shall be an obligation of the district; and that upon the surrender to the county treasurer of the bonds, together with the unpaid interest coupons belonging to same, the county treasurer shall pay on demand to the holders their pro rata part of the moneys or bonds deposited with the county treasurer as trustee, and shall mark the bonds canceled and deliver them to the irrigation district.

(3) All holders of evidences of indebtedness to be retired or refunded shall be deemed to have notice of all steps and proceedings had. [Amended by 1989 c.182 §21]

545.288 Nature of proceeding; appeal; nonprejudicial errors; costs. The procedure in the circuit court under the provisions of ORS 545.278 to 545.286 shall be in the nature of an equitable proceeding in rem. Any holder of evidences of indebtedness affected by any such court procedure, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after the rendition of the decree of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties and may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.562 §22]

545.290 Proceedings in case of previously refunded indebtedness; petition by district; objections to refunding; decree of court. Any irrigation district which, before February 18, 1931, refunded and compromised and settled its indebtedness under the provisions of ORS 545.242 to 545.276, with the consent of not less than 80 percent in amount of its known holders, but who did not constitute all the holders of the indebtedness refunded, compromised or settled by such proceedings, may file in the circuit court the petition provided for in ORS 545.282 and have such proceedings thereunder as are provided and set forth in ORS 545.282 to 545.286. Those holders who fail to file in the court, within 90 days from the date of the first publication of the notice, their protests and objections to the refunding, compromise or settlement of evidences of indebtedness of the district so compromised or settled under the proceedings had before February 18, 1931, will be deemed to have consented to the refunding, compromise and settlement and be bound by such proceedings theretofore had. The court shall take such steps and enter such decree in the premises as provided in ORS 545.286.

ALTERNATIVE METHOD OF LIQUIDATING INDEBTEDNESS

545.312 Contract providing plan of liquidation; resolution for; investigation by and approval of Water Resources Commission. Any irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of its outstanding bonded or other indebtedness, or any part thereof, whether then due or not due, may in lieu of other procedure provided by law elect to adopt the procedure provided by ORS 545.312 to 545.332. Before becoming a party to any such contract the board of directors shall enter a resolution substantially describing all the terms and conditions of the proposed contract and requesting the Water Resources Commission to make an investigation, upon receipt by the commission of a copy of the resolution, of all matters, physical, economic and financial, relating to the district and the irrigable acreage of each legal subdivision or other described tract if held in separate ownership, with particular reference to the ability of the district or the landowners therein to perform the obligations of the proposed contract, which investigation the Water Resources Commission shall then make. If, after such investigation, the Water Resources Commission determines that the contract may wisely be executed by the district, the Water Resources Commission shall enter the resolution of the commission to that effect advising the district thereof.

545.314 Terms of contract; parties; execution. (1) Such contract may provide any plan of liquidation of any indebtedness by the district, with terms of discount of the principal or interest, times and manner of payment, and apportionment of the burdens thereof over the irrigable or other lands and the water rights appurtenant thereto within the district, as the parties may agree to, notwithstanding any other statute expressly or impliedly limiting the powers of the parties herein named to enter into any such contract. All parties named in subsection (2) of this section hereby are authorized and empowered to become party to, sign, seal, execute and deliver any such contract so agreed upon, according to the provisions of ORS 545.312 to 545.332.

(2) The parties to the contract shall include:

(a) The county courts or boards of county commissioners of the counties in which the lands are located.

(b) The owners or holders of at least 80 percent in amount of the then outstanding bonds or other evidences of indebtedness of the district, liquidation of which is the purpose of the contract; provided, that the owners or holders jointly may become party thereto through the agency of a protective committee selected for that purpose by them, whose authority in the premises shall sufficiently be evidenced by the deposit at the instance of such protective committee, with the county treasurer of the county in which the district is headquartered, of at least 80 percent in amount of the bonds or other evidences of indebtedness pursuant to a deposit and agency agreement between the owners or holders and the protective committee.

(c) All persons who own any lands in the district or whose deeds would be required under law in order to convey such title as then is outstanding in private ownership to any lands included in the district or whose transfer of any government or state lands would be required or permitted under law in order to convey such interests then outstanding in private ownership in the lands; provided, that the lands described in and covered by the contract may be all or such part of the lands within the district upon which all of the parties thereto agree.

(3) The contract shall be executed by all parties with such formalities as will entitle it to be recorded. [Amended by 1989 c.182 §22]

545.316 Recordation of contract; inception of obligation; preeminence of contract with respect to rights and liabilities. Upon the execution and delivery of the contract, the board of directors shall cause it to be recorded in the records of

mortgages in the counties in which any part of the lands covered thereby are located. Thereupon the contract shall become effective in accordance with its terms as of the effective date agreed upon therein, and the rights, privileges, liabilities and obligations of all parties thereto, as therein described, shall, as of the effective date, govern and control all parties in lieu of all statutory rights, privileges, liabilities and obligations theretofore governing and controlling the parties in the premises.

545.318 New contract in lieu of previous contract. Any time after the execution, delivery and recording of a contract as described and authorized in ORS 545.314 and 545.316, the irrigation district and all other parties thereto, their successors, heirs, executors, administrators and assigns, may become parties in accordance with the provisions of ORS 545.312 to 545.332 to any new contract in like manner, in lieu of the contract then in effect.

545.320 Constructive consent of holders of outstanding indebtedness; procedure for obtaining consent; petition. (1) For the purpose of obtaining constructive consent to a contract executed in accordance with ORS 545.312 to 545.332, of the unknown owners or holders of the bonds or other evidences of indebtedness the liquidation of which is the purpose of the contract, who have not either personally or through a protective committee become party to the contract, the board of directors shall file in the circuit court of the county in which is located the district office a petition in rem verified by the oath of the president or secretary of the district, in which shall substantially be described the terms and conditions of the contract executed by the district for the liquidation of the bonds or other evidences of indebtedness.

(2) The petition shall further allege what percentage in amount (which percentage shall be not less than 80 percent of the owners or holders of the bonds or other evidences of indebtedness) have become parties to the contract, and shall further set forth what steps have been taken to get the consent of all nonconsenting owners or holders of the bonds or other evidences of indebtedness.

545.322 Notice of petition and terms of contract; failure to file dissent; effect.

(1) Upon presentation of the petition to the judge of the court, the judge shall authorize the district to publish and the district shall cause to be published, for at least four consecutive weeks in three newspapers published within Oregon, to be designated by the court, and one of which shall be published in the county in which the office of the board

is situated, a notice describing in substance the terms and conditions of the contract.

(2) The notice shall contain a general description of the evidences of indebtedness to be liquidated, and the amount thereof; shall require all holders of the evidences of indebtedness to file in the proceeding their written dissent from or objection to the contract; and shall state that if such dissent is not filed in writing in the court within 90 days from the date of the first publication of the notice, the owners or holders of the evidences of indebtedness so failing to file shall be deemed to have consented to all the terms and conditions of the liquidation of the indebtedness as provided in the contract. Failure within said 90 days to file dissent and objections with the court shall be the equivalent of the signing, execution and delivery of the contract either personally or through the agency of the protective committee by the known consenting owners or holders of the evidences of indebtedness. [Amended by 1989 c.182 §23]

545.324 Hearing on petition; decree; trustee. (1) After 90 days from the date of the first publication of the notice the district shall file in the proceeding in the circuit court its verified return of its acts made under the order of the court attaching affidavits of the publication of the notice in three newspapers. Thereupon, the court shall hear the cause and shall enter a decree adjudging that all the owners or holders of the evidences of indebtedness who have not, within 90 days after the date of the first publication of the notice, filed in the court their written dissent and objections to the proceedings and contract, have consented that their evidences of indebtedness be liquidated in accordance with the terms and provisions of the contract.

(2) In the decree the court shall direct the officers of the district, or the landowners within the district, or the protective committee acting for the consenting owners or holders, as the court may adjudge most expedient and practicable under the terms of the contract, to deposit with the county treasurer of the county in which the district is headquartered as trustee for the persons entitled thereto, the pro rata part of the cash as received which, under the contract, belongs to the owners or holders of the evidences of indebtedness whose consent was so obtained by the court proceedings.

(3) The decree shall provide further that, upon the payment of the money to the county treasurer as trustee, the evidences of indebtedness held by said owners or holders shall be deemed paid and no longer shall be an obligation as provided in the contract; and that upon surrender to the county treas-

urer of the bonds with the unpaid interest coupons or other evidences of indebtedness, the county treasurer shall pay on demand to the owners or holders their pro rata part of the moneys deposited with the county treasurer as trustee, and when paid in accordance with the contract, shall mark the evidences of indebtedness canceled and deliver same to the district.

(4) All owners or holders of the evidences of indebtedness to be liquidated shall be deemed to have notice of all steps and proceedings had. [Amended by 1989 c.182 §24]

545.326 Nature of proceeding; appeal; nonprejudicial errors; costs. The procedure in the circuit court under the provisions of ORS 545.312 to 545.324 shall be in the nature of an equitable proceeding in rem. Any owner or holder of evidences of indebtedness affected by any such court procedure, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after rendition of the decree of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties, and may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.562 §23]

545.328 Proceedings for approval of liquidation agreement executed prior to June 1933. Any irrigation district which before June 14, 1933, became a party to a contract or was on that date in the process of negotiating a contract substantially in accordance with ORS 545.312 to 545.332, with the consent of not less than 80 percent in amount of its known owners or holders but who did not constitute all the owners or holders of the evidences of indebtedness of the district, may file in the circuit court the petition provided for in ORS 545.320 and have such proceedings thereunder as are provided in ORS 545.320 to 545.326 for securing the constructive consent of owners or holders of evidences of indebtedness not parties to the liquidation contract. Those owners or holders who fail to file in the court, within 90 days from the date of the first publication of the notice, their protests and objections to the contract executed or in the course of negotiation for liquidation of the evidences of indebtedness, shall be deemed to have consented to the contract and be bound by such proceedings had and to be had in accordance with ORS 545.320 to 545.324 to secure constructive consent. The court shall

take such steps and enter such decree in the premises as provided in ORS 545.324.

545.330 Preexisting contracts; validation. Where any irrigation district before June 14, 1933, became, or on that date was in the process of becoming party to any contract providing a plan for the liquidation in any manner of its outstanding indebtedness, with parties and procedure substantially equivalent to the parties and procedure described and authorized in ORS 545.312 to 545.326, such contract and the proceedings by which it was executed hereby are validated, ratified and confirmed, and held to be of the same force and effect as though originally done pursuant to ORS 545.312 to 545.326.

545.332 Moneys and securities; custody and transfer; authority of State Treasurer. The State Treasurer may act as depository for any purposes under the provisions of ORS 545.312 to 545.330. All warrants, bonds or other evidences of indebtedness may be deposited with the State Treasurer for safekeeping. [Amended by 1989 c.182 §25]

ADDITIONAL METHOD OF LIQUIDATING INDEBTEDNESS

545.352 Contract providing plan of liquidation; resolution of directors. Any irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of its outstanding bonded or other indebtedness or any part thereof whether then due or not due, may in lieu of other procedure provided by law, elect to adopt the procedure provided by ORS 545.354 to 545.360. Before becoming a party to any such contract the board of directors shall enter a resolution substantially describing all the terms and conditions of the proposed contract.

545.354 Terms of contract. The contract may provide any plan of liquidation of any indebtedness by the district, with terms of discount of the principal and interest, times and manner of payment thereof, and apportionment of the burdens thereof over the irrigable or other lands. It may also provide for the manner and method of making assessments for payment of the principal and interest agreed to be paid, and the issuance of certificates or other evidences of participation in the contract by the owners or holders of evidences of indebtedness of the district. The contract may contain a provision permitting the release of any land in the district from any lien created by the contract to secure the payment of the obligations thereof as to such lands, or relieving any land in the district from any obligation to pay any assessment thereafter levied for

the purpose of meeting the obligations or interest accruing under the contract, by payment to the district of such amount, or delivery of such bonds or coupons or other evidence of participation in the contract, as may be provided in the contract and to which all the parties may agree, notwithstanding any other statute expressly or impliedly limiting the powers of the parties named in ORS 545.356 to enter into any such contract.

545.356 Parties to contract; execution.

(1) All parties described in this section hereby are authorized and empowered to become party to, sign, seal, execute and deliver any such contract agreed upon according to the provisions of ORS 545.352 to 545.360. The parties shall include:

(a) The irrigation district; and

(b) The owners or holders of at least 66-2/3 percent in amount of the then outstanding bonds or other evidences of indebtedness of the district, the liquidation of which is the purpose of the contract; provided, that the owners or holders of any of them jointly may become party thereto through the agency of a protective or bondholders' committee selected for that purpose by them.

(2) The contract shall be executed by all parties with such formalities as will entitle it to be recorded.

545.358 Election authorizing directors to enter into contract. The contract provided for in ORS 545.352 to 545.356 may be entered into by the district by its board of directors with a majority vote of the electors of the district authorizing the same.

545.360 Recordation of contract; inception of obligation; preeminence of contract with respect to rights and liabilities. Upon execution and delivery of the contract the board of directors shall cause it to be recorded in the records of mortgages in the counties in which the lands covered thereby are located. Thereupon the contract shall become effective in accordance with its terms as of the effective date agreed upon therein, and the rights, privileges, liabilities and obligations of all parties thereto, as therein described, shall, as of the effective date, govern and control all the parties in lieu of all statutory rights, privileges, liabilities and obligations theretofore governing and controlling the parties in the premises.

CONTRACTS WITH UNITED STATES

545.382 Contract with United States; annual assessments or direct billings. Whenever any irrigation district has entered into any contract with any governmental

agency of the United States for a loan pursuant to the provisions of ORS 548.305 to 548.325, the board of directors of the district may levy annually assessments upon the lands in the district necessary to carry out and comply with the terms and provisions of the contract, or may bill the water users directly for such purposes. [Amended by 1991 c.459 §423b]

545.384 Deposit of moneys in special fund; uses. All moneys realized from any assessments levied under ORS 545.382 shall be covered by the treasurer of the district into a special fund, which shall be used solely for the purpose of carrying out and complying with the terms of the contract and the payment of installments of principal and interest falling due upon any bonds issued pursuant thereto.

IMPROVEMENTS; WATER DISTRIBUTION

545.402 Petition to construct improvements for irrigation; assent of petitioners to assessment of cost of improvement. The holders of title, or evidence of title, representing a majority of the acreage of any body of land within any irrigation district, may file with the board of directors of the district a petition in writing, praying for the construction of any improvement necessary or expedient for the efficient irrigation of the lands. The petition shall in a general way describe the proposed improvement and shall describe the tracts, or body of land, owned by the petitioners, and shall contain a description of the exterior boundaries of the land for which the proposed improvement is to be constructed, and describing therein any lands that are to be excepted from the benefit or use of the proposed improvement. The petition shall also contain an agreement on the part of the petitioners that the cost of construction of the improvement shall constitute a lien upon the lands within the exterior boundaries of the land described in the petition, except the lands that are therein excepted from the benefit or use of the proposed improvement, and that the lands shall be assessed for and pay the cost of the improvement. The petition shall be deemed to give assent of the petitioners to construction of the improvement and shall authorize the assessment of the cost of such improvement upon and against the lands described in the petition and not specifically therein excepted. The petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged.

545.404 Elections to determine question as to construction of improvement; resolution of directors. (1) The board of directors, if they deem it for the best interest

of the district that the proposed improvement be constructed, may by resolution call an election to be held within the boundaries of the land described in the petition for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. The board shall in the resolution fix the time and place of holding the election, and specify the polling place, and shall also appoint three judges who shall constitute a board of election. The resolution shall also contain the ballot title to be used at the election, which title shall contain such information as in the judgment of the board will advise the owners of the land to be charged with the cost of the proposed improvement as to the general nature of the improvement and the estimated cost.

(2) The board at the time of calling the election within the land described in the petition shall also by resolution call an election to be held within the district at large for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. This resolution shall contain provisions identical with those provided for in subsection (1) of this section. The election in the district at large shall be held on the same day that the election within the territory described in the petition is held. The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state applicable to irrigation districts.

545.406 Majority of votes as determinative; construction of improvement; cost; apportionment; assessment. If a majority of the votes cast by the electors within the boundaries of the land described in the petition are "Improvement—Yes," and if a majority of the votes cast by the electors in the district at large are "Improvement—Yes," then, but not otherwise, the board shall construct the improvement. The cost of construction shall be apportioned by the board to the lands within the boundaries described in the petition, so that each acre of irrigable land therein shall be assessed and required to pay the same amount. In all other respects the assessment and its levy and collection shall be, as nearly as practicable, in accordance with the assessment, levy and collection of other assessments and taxes levied upon lands within the district.

545.408 Directors may construct or maintain improvements, levy assessments. (1) This section applies:

(a) When a parcel of land lying within an irrigation district is subdivided into tracts of four acres or less, and the owner has made no provision which in the opinion of the

board of directors is adequate for the proper distribution of water thereto; or

(b) When improvements for the distribution or delivery of water to any tract of land are not owned by the district and the owner or person in control of the improvement fails to maintain, repair or replace the improvement as required for the proper and efficient distribution or delivery of water to any tract.

(2) Whenever the interest or convenience of such tracts requires the construction, repair or maintenance of any ditch, flume, dike, aqueduct or other improvement, the board may construct, repair or maintain such improvement, and levy and collect an assessment upon all tracts specially benefited thereby, to defray the whole or any portion of the cost and expense thereof. The board may determine what lands are specially benefited by such construction, repair or maintenance, and the amount to which each tract is benefited. [Amended by 1969 c.124 §1]

545.410 Apportionment of water to tracts; employment of person to distribute water; assessment of cost; lien on land. Whenever a parcel of land lying within an irrigation district is subdivided into tracts of four acres or less, and plats of such subdivision are filed as provided by law, and the owners fail properly to apportion the water to their various tracts in the subdivision, the board of directors may employ some competent person to distribute and apportion water for such tracts. The reasonable cost of such services shall be apportioned each year by the board to such tracts. The cost of such services shall be assessed by the board as a special charge to the tracts in the same manner as other assessments are made and extended upon the tax rolls of the county in which the irrigation district lies. The assessments so levied and apportioned shall be a lien upon the tracts, and shall be collected in the same manner as all other assessments are levied and collected by the board. [Amended by 1969 c.124 §2]

545.412 Resolution for water distribution works or services; hearing of objections; construction, repair or maintenance of improvement; apportionment of costs; assessment. (1) Whenever the board of directors shall deem it expedient or necessary to construct, repair or maintain ditches, flumes, dikes, aqueducts or other improvement as provided in ORS 545.408, or to employ the services of some competent person to distribute and apportion water for any subdivision, as provided in ORS 545.410, the board shall declare such necessity by resolution.

(2) A resolution shall be posted in three public places in the subdivision for five days.

Within 10 days from the date when the resolution is posted, the owner of any property within the tract may file with the secretary a written remonstrance against the proposed improvement or employment. The board hearing such remonstrances may, in its discretion, overrule any remonstrance and by a resolution order construction, repair or maintenance of the improvements. The board may either enter into a contract to complete the improvement or, in its discretion, complete the improvement under its own supervision. After the work on the improvement is completed the board shall, by resolution, apportion the costs and shall declare an assessment upon each tract benefited, which assessments shall be final and conclusive. [Amended by 1969 c.124 §3]

545.414 [Amended by 1969 c.124 §4; repealed by 1993 c.771 §20]

TAXES AND ASSESSMENTS GENERALLY

545.432 Annual assessments; computation of amount to be raised; apportionment; determination of acreage and assessments; filing with county treasurer; credit for water rights. (1) The board of directors shall, on or before the first Tuesday in April of each year, make a computation of the whole amount of money necessary to be raised by the district for the ensuing year for any purpose whatsoever in carrying out the provisions of the Irrigation District Act, including estimated delinquencies on assessments, and may provide for a reasonable maintenance and operation reserve fund. The amount, when so determined by the board, shall constitute an assessment upon all the land included in the district, and shall be apportioned by the board to the lands owned or held by each person so that each acre of irrigable land in the district shall be assessed and required to pay the same amount, except as otherwise provided in ORS 545.432 to 545.440. When bonds of the district registered with the county treasurer under ORS 208.200 are outstanding, the board shall send a copy of the computation of the annual assessment to the county treasurer of the county referred to in ORS 545.196.

(2) The board of directors shall determine the number of irrigable acres owned by each landowner in the district and the proportionate assessments as nearly as may be from available information. Should it be found that a substantial error has been made in such determination, proper adjustment may be made at the next equalization of the annual assessment by increasing or decreasing the amount any landowner shall pay. Any lands owned by any person totaling less than

one acre in area shall be assessed as one acre.

(3) Until such time as the water rights appurtenant to any tract of land within an irrigation district are acquired by the district, the assessments against such land, except for operation, maintenance and drainage, shall be in the same proportion to a full assessment as the additional water right to be supplied to such tract bears to a full water right. For operation, maintenance and drainage, each irrigable acre in the district shall be assessed the same, except as otherwise provided in ORS 545.434 to 545.440. [Amended by 1969 c.694 §30]

545.433 Certain lands may be assessed at different amounts; additional service charge. (1) Notwithstanding any provision of ORS 545.432 or 545.482 to 545.508 to the contrary, an irrigation district which assesses land in the district under the provisions of ORS 545.432 or 545.482 to 545.508 may assess any land within the district to which the district furnishes or supplies water for irrigation purposes which:

(a) Lies above the level of the canals or ditches of the district and is irrigated by pumping by the landowner, or

(b) Is irrigated by a partial, supplemental or intermittent supply of water from the district, or

(c) Is irrigated by impounded water of the district, or

(d) Is irrigated by water of the district which is subject to prior use by other lands within the district,

in such amount as the board determines to be just, taking into consideration the benefit to the land assessed and extra expenses, if any, of the landowner or holder, in using such water, but such amount may not exceed the amount assessed against irrigable acres lying below the level of the canals or ditches of the district.

(2) Notwithstanding any provisions of ORS 545.432 or 545.482 to 545.508 to the contrary, an irrigation district which assesses land in the district under the provisions of ORS 545.432 or 545.482 to 545.508 may, at the discretion of the board of directors, assess a service charge, in addition to the regular assessment, against subdivided and small tract lands that have appurtenant water rights and to which irrigation water is furnished or is available for delivery, when delivery of water to these lands requires operation, construction and maintenance costs substantially greater than operation, construction and maintenance costs involved in delivering water to the majority of other lands in the district. All such small tract or subdivided lands shall be placed in groupings

rounded up to the next whole acre, and each grouping shall be assessed as a single class. [1955 c.36; §2; 1961 c.388 §1; 1989 c.182 §26]

545.434 Assessment on benefit basis; determination of benefits. Any district issuing bonds may, after an affirmative vote at any regular or special election called or held pursuant to the Irrigation District Act, proceed to levy and collect assessments for any purposes of the irrigation district on a benefit basis instead of on the basis of the number of irrigable acres. The valuation of such lands for determination of benefits shall be placed thereon by three competent, disinterested viewers appointed by the governing body of the county. The viewers shall classify the lands included in each ownership or smallest legal subdivision and fix the assessments according to the productive value of water and land prepared to receive water, but not including permanent improvements, such as buildings or orchards, and with proper deductions for partial water rights appurtenant to any tract of land within the district not furnished by the district. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds. [Amended by 1989 c.182 §27]

545.436 Deduction for rights or property required by district; assessments pending construction. (1) In fixing the proportionate part of the cost of the reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights or other property or rights required by the district, may be deducted from the amount that the owner of such property or rights would otherwise be required to pay, and assessments for payment of the cost of such reclamation and interest thereon may be made accordingly. Property and rights so acquired shall not be vested in the district until bonds have been disposed of or means otherwise provided for reclamation of the land in the district.

(2) The board may, before completion of the project, so adjust the assessment that the lands to which the district delivered water or could on demand have delivered water, during the preceding irrigation season, shall, in addition to their pro rata share of the remainder of the assessment, pay for the operation and maintenance of the constructed or partially constructed works through which such lands receive water.

545.438 Assessments for contracts with United States. (1) Where contract has been made with the United States, in addition to the amount determined and apportioned as provided in ORS 545.432 to 545.436, the board shall also fix the amount payable by each tract within the district, in accor-

dance with the federal reclamation laws and the public notices, orders and regulations issued thereunder, and in compliance with any contract made by the United States with the owners of the lands, and in compliance with the contracts between the district and the United States. In case of such contract lands having appurtenant thereto a partial water right or partial rights in a system of irrigation, or irrigation and drainage, the amounts payable shall be according to the benefits, making due allowances for existing rights. The amounts so determined, fixed and apportioned shall constitute an assessment upon the lands of the district.

(2) In irrigation districts which enter into a contract with the United States providing for the payment of charges to the United States upon the basis authorized by the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes," annual levies of assessments for the purpose of making payment to the United States under such contract may be made by the board on the basis provided for in that Act and the contract thereunder, either before or after judicial confirmation of apportionment of benefits. In such districts annual levies for the purpose of making construction payments to the United States may be made on the basis of the gross average annual acre-income of the lands of the district or divisions thereof, or classes of lands therein, as such gross average annual acre-income is determined by the Secretary of the Interior, until the amount apportioned against each tract has been fully paid.

545.440 Record of assessments and apportionments; error in description; evidence. The board shall prepare a list or record of the assessments and apportionments in duplicate, giving the description of the ownership or holdings of each person therein assessed or apportioned, one of which shall be a permanent record in the office of the board. Any irregularity or error in the description shall not be deemed jurisdictional, or render the assessment void, if the land assessed can be identified. The assessment and apportionment made by the board of directors is prima facie evidence that all the requirements of the law in relation thereto have been complied with and that the same are liens against the property to the same extent as other taxes lawfully levied.

545.442 Resolution concerning assessments for payment to United States; publication; collection by county officers.

The board of directors of any irrigation district which has entered into a contract with the United States providing for payment to the United States under any federal reclamation law may, at any regular meeting, not later than its meeting on the second Tuesday of September of any year, enter a resolution fixing the date upon which computation shall be made of the necessary funds to be raised as provided in ORS 545.438, and the date when the board shall convene as a board of equalization. The board of directors may, in such resolution, authorize such discounts as may be provided for in the contract between the district and the United States, for payment of assessments in full on or before December 31 of the year in which the assessments are made, and shall make the levy of assessments in such amount that the discount can be allowed without reducing collections below the required amount. The resolution shall be published for two consecutive weeks in a newspaper in the county wherein the office of the district is located. The resolution thereafter shall remain in full force and effect until revoked by the board. In case the district does not collect its own assessments, the assessment shall be completed and the levy filed with the county assessor prior to November 30 of the year in which the assessment is made. After receipt of a certified copy of the resolution, the county officers charged with the collection of irrigation district assessments shall collect the same in accord with the provisions of the resolution.

545.444 Development of district by units; apportionment of assessments; inclusion of noncontiguous land; assessment of unirrigated lands for district obligations. Any irrigation district may provide for the reclamation, improvement or irrigation of the lands therein in units, in which event the assessments against the lands in the district may be apportioned by the board of directors to the lands owned or held by each person so that the lands in each unit shall pay the cost of reclaiming, improving, maintaining and operating the same. Within the units the assessments shall be apportioned pursuant to the provisions of ORS 545.432 to 545.440. Land noncontiguous to an irrigation district may be included in the district as a unit at the time of the organization of the district or subsequent thereto. Prior to the completion of the works for the reclamation of any units the lands therein may be assessed as appears equitable to the board, subject to the rights of land owners in the district to have the assessments adjusted by the board of equalization and to appeal therefrom. However, all lands, whether irrigated or not, shall be subject to

assessment for the payment of any obligation of the district. [Amended by 1989 c.182 §28]

545.446 Districts developed by units; validation. The reclamation, division, improvement and assessment of lands within any irrigation district in units, made before June 2, 1927, are hereby validated.

545.448 Equalization of assessment and apportionment of taxes; notice of time of meeting of board; public inspection of list. Not more than 30 nor less than 10 days before the annual date specified by the board of directors as provided in ORS 545.450, the secretary of the board shall give notice of the time the board, acting as a board of equalization, will meet for the purpose of reviewing and correcting its assessment and apportionment of taxes, as provided in ORS 545.450, by publishing the notice not less than one time in a newspaper published in each county in which the district is situated. The board shall meet for this purpose on the date specified by the board as provided in ORS 545.450. In the meantime the assessment list and record shall remain in the office of the secretary of the board, for the inspection of all persons interested. All persons shall be presumed to have notice of the time of the meeting, whether they receive actual notice or not. [Amended by 1987 c.835 §2]

545.450 Meeting of board; duration; hearing and determination of objections to assessments and apportionment; changes. The board of directors shall meet annually on a date specified by the board as a board of equalization, and continue in session from day to day, as long as necessary, to hear and determine any objections by any interested persons to the assessments and apportionment thereof made pursuant to the Irrigation District Act, and any other matters connected therewith that may come before them. The board shall change its assessment and apportionment and the list and record of the same as to irrigable acreage, description, etc., in any respect and manner as may be necessary to make the same just and in accordance with the facts. The secretary of the board shall be present during these sessions, and shall note all changes made in such assessment, apportionments, lists and records, and in the names of the persons whose property is listed. [Amended by 1987 c.835 §3]

545.452 Certification of assessments to county assessors; entry on assessment roll; collection of taxes; deposit of sums collected; disbursements from fund; taxation of state and federal lands. (1) After the board has completed its assessment, it shall certify the assessment to the county assessor of each county in which district

lands lie. The certificate shall be made in the manner provided in ORS 310.060. The county assessor shall enter the apportionment upon the county assessment roll against the property therein described, in the same manner that other municipal assessments are entered by the county assessor, except that the sum apportioned to and charged for operation and maintenance, and the sums apportioned for all other purposes, shall be entered by the assessor separately on the assessment roll as the irrigation district taxes against the same.

(2) The taxes shall be collected and accounted for in the same manner as other municipal taxes, and the collection enforced in the same manner as the other taxes of the county, except that the tax collector shall collect and account for the tax for operation and maintenance separate from the taxes levied by the district for other purposes. When paid to the county treasurer, all taxes or assessments levied and collected for operation and maintenance shall be carried in a fund to be known as the operation and maintenance fund. All warrants issued in payment for operation and maintenance shall be drawn against and paid out of that fund.

(3) Any land, title to which is vested in the state, including lands segregated under the Carey Act or state lands sold under contract, in any irrigation district, shall be subject to taxation by the district. The full amount of assessments due against the lands shall be paid to the district before the same is sold, resold or contract for sale executed. The public lands of the United States within the district, whether entered or unentered, shall be subject to taxation under the Act of Congress of August 11, 1916. [Amended by 1955 c.93 §1; 1973 c.305 §17; 1991 c.459 §424]

545.454 Nonperformance by board; assessment, levy and equalization by county court. In case of neglect or refusal of the board of directors to have the assessment and levy made, the assessment and levy shall be made and equalized by the county court or board of county commissioners of the county in which the office of the board of directors is situated, sitting for the transaction of county business, in the same manner that the court or board levies county taxes, with like effect as the board of directors is required to make the same. All expenses incident thereto shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 545.452.

545.456 Validation of assessments; defective entry on assessment roll; lands partly outside district. All assessments made before May 24, 1933, against real property within any irrigation district by the

board of directors of the district, which assessments were made substantially in accordance with the provisions of ORS 545.432 to 545.440, are hereby validated, and any such assessments shall be a lien upon the real property therein described, notwithstanding that they were not entered on the county assessment roll against the property described in the manner and as provided by ORS 545.452. Any assessment levied against lands partly within and partly without the boundaries of any irrigation district shall not be void by reason thereof, but shall constitute a valid assessment against that portion of the lands described in the assessment lying within the boundaries of the irrigation district.

545.458 Misnomer or mistake relating to ownership not to affect sale. When land is sold for assessments correctly imposed as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership, shall affect the sale or render it void or voidable.

545.460 Withholding water while assessments are unpaid; accepting security for payment of assessments. The board of directors of any irrigation district may, in its discretion, withhold delivery of water to any land within the district until such time as unpaid assessments appearing on the county tax rolls levied against the lands for any prior year or years, as the board may direct, are paid. Any board of directors may accept promissory notes, chattel or real property mortgages or other security, as security for the payment of any delinquent assessments.

545.462 Cancellation or compromise of assessment liens on lands acquired by county for taxes. The board of directors of any irrigation district may, in its discretion, cancel or compromise any liens for unpaid assessments of the district on lands which have been acquired for taxes by a county.

545.464 Order to tax collector to cancel or change liens; correction of delinquent tax rolls. In the event the board of directors deems it for the best interests of the district to compromise or cancel any unpaid assessments of the district on lands acquired by a county for taxes, the board shall make an order to the tax collector of the county in which the lands are situated to cancel or change the existing irrigation liens. Thereupon the tax collector shall correct the delinquent tax rolls in accordance with the order of the board. [Amended by 1973 c.305 §18]

545.466 Effect of ORS 545.462 and 545.464 on existing laws. ORS 545.462 and 545.464 shall not be deemed to repeal or

amend any existing law relating to the manner of collection of unpaid irrigation district assessments.

545.468 Exemption of parcel of land from payment of charge or assessment; qualification of owner of excluded parcel as district elector. (1) In addition to and notwithstanding any other provision in this chapter, the board of directors of an irrigation district, by resolution, may exempt a parcel of land in the district from payment of any charge or assessment authorized by this chapter when:

(a)(A) The parcel of land is unable to receive water from the district for irrigation or domestic use; and

(B) The parcel consists of two acres or less; or

(b) The water right appurtenant to the parcel has been transferred by the district to other land within the district under ORS 540.572 to 540.578, and the other land has been included in the district subject to the liens and charges or assessments of the district for the delivery of irrigation water.

(2) The owner of a parcel of land exempt from payment of charges or assessments under this section is not an elector of the district unless the owner qualifies as an elector through ownership of other land within the district. [1985 c.581 §4; 1991 c.957 §14]

DISTRICTS CONTRACTING WITH STATE OR FEDERAL GOVERNMENT; ALTERNATIVE METHOD OF LEVYING AND COLLECTING ASSESSMENTS OR CHARGES

545.482 Authorization of method for levying and collecting assessments or charges. The board of directors may provide by resolution for the levy and collection of assessments and for the billing and collection of charges of the district in the manner provided in ORS 545.484 and 545.494 to 545.508, in lieu of the method provided for in ORS 545.432 to 545.440, 545.444 to 545.454 and 545.562. The resolution may apply to charges for operation and maintenance, or assessments for construction or other charges payable to the United States or the State of Oregon under the terms of the contracts of the district with the United States or the State of Oregon, whether before or after the district has commenced to deliver water through all or any part of its canal or distribution system, and if the consent of all the holders of outstanding bonds of the district has been obtained, the resolution may provide for the collection of all assessments for the purpose of retiring bonds and payment of interest on such bonds, or any part

thereof. [Amended by 1959 c.223 §1; 1987 c.694 §1; 1991 c.459 §423c; 1993 c.270 §70]

545.484 Computation of amount to be raised; charges and assessment; lien on land. Any time during the year the board of directors of an irrigation district that has provided for the collection of its own charges and assessments as provided by ORS 545.482 to 545.508, and in any event at least once each year, shall, by resolution, make a computation of the amounts of money necessary to be raised by the district, including an allowance for delinquencies in collections, for the purpose of care, operation and maintenance, repairs, bond or interest payments, or payments due or to become due to the United States or the State of Oregon under any contract of the district with the United States or the State of Oregon, or other expenses of the district. [Amended by 1987 c.694 §2; 1991 c.459 §423d]

545.486 [Amended by 1971 c.46 §1; repealed by 1991 c.459 §423s]

545.487 Pressurization charge; application to certain lands; apportionment. (1) An irrigation district that charges for water delivery in the district under the provisions of ORS 545.482 may charge, at the discretion of the board of directors, a pressurization charge, in addition to the regular charge. The pressurization charge may be charged against the lands that have appurtenant water rights and to which irrigation water is furnished or is available for delivery by pipe and under pressure when delivery of water by pipe and under pressure to these lands requires operation, construction and maintenance costs greater than the operation, construction and maintenance costs involved in delivering water to the nonpiped and nonpressurized lands in the district.

(2) The board may apportion a pressurization charge allowed under subsection (1) of this section to the water users of the lands served by pipe and pressurized water so that each acre of irrigable land in the district that has piped and pressurized water to it shall be required to pay the same per acre pressurization service charge. [1989 c.182 §2; 1991 c.459 §423e]

545.488 [Amended by 1989 c.182 §29; repealed by 1991 c.459 §423s]

545.490 [Repealed by 1991 c.459 §423s]

545.492 [Repealed by 1991 c.459 §423s]

545.494 Unpaid charge or assessment as lien on land; priority respecting other liens and claims. If any charge or assessment remains unpaid beyond the due date thereof, the secretary of the district may file a notice of claim of lien with the recording officer of the county of each county in which land is situated which received or was enti-

tled to receive the benefit of the water delivery for which the charge or assessment has been made. The notice of claim of lien shall be in writing and must contain:

(1) The name of the water user to whom the water was delivered or was deliverable;

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

(3) A description of the land which received or was entitled to receive the benefit of the water delivery sufficient for identification. Upon such filing, the charge or assessment shall become a lien upon all lands therein described in the amounts set forth opposite each tract of land. The lien shall be prior to all encumbrances of whatever kind or nature, whether executed before or after the lien of the irrigation district is created, or whether recorded or registered or not; except that the lien of the irrigation district upon each tract of land shall be subject to all lawful taxes levied and assessed for state and county purposes by the county in which the land lies, but shall not be subject or inferior to any claim, lien or assessment of any other taxing district, whether municipal, public, or other corporation, whenever levied, or whether extended on the county tax rolls for collection or not. [Amended by 1991 c.459 §423f]

545.496 Collection; time and place of payment; withholding of water until payment; interest on unpaid charges or assessments. (1) Charges and assessments under ORS 545.482, 545.484 and 545.494 shall be collected by the secretary of the district, and shall become due and payable at such time and place as the board of directors may determine. The board may withhold delivery of water from any tract of land until the charges and assessments are paid, whether such charges and assessments are for operation and maintenance, repairs, construction, or other purposes, or if any water user is delinquent in the payment of any charge or assessment, whether for irrigation water delivered, or charges for any purpose becoming due, in and for the year in which such water is desired, or in prior years.

(2) If a charge or assessment, or any installment thereof, under ORS 545.482, 545.484 and 545.494 is not paid when due, interest shall be charged and collected on the charge or assessment or installment at the average of the prime rates charged by all banks in Oregon plus two percent per annum, determined as of the date on which the charge, assessment or installment is due.

(3) If a notice of claim of lien has been filed under ORS 545.494, the costs of the filing and any costs of removing the lien, including but not limited to recording and

filing fees, title search fees and a reasonable administrative fee, shall be charged and collected at the time of payment under subsection (1) of this section. [Amended by 1981 c.71 §1; 1991 c.459 §423g; 1993 c.771 §16]

545.498 Surety bond to be given by secretary prior to collection. Before collection of any charges or assessments as provided in ORS 545.482 to 545.508, or handling or receiving any funds, the secretary of the district shall give a good and sufficient surety bond in an authorized surety company, in such amount as the board of directors may determine, the cost of the bond to be paid by the district. The bond shall be approved by the board and filed in the office of the district. The amount of the bond may be varied from time to time by order of the board. [Amended by 1991 c.459 §423h]

545.500 Resolution to fix time and place of payment and date of delinquency. The board of directors, in the resolution establishing any charge or assessment under ORS 545.482 to 545.508, shall fix the time when the charge or assessment shall become due and payable, and also shall fix a time after which the charge or assessment shall become delinquent, which time shall be at any time within one year from the date the charge or assessment becomes due and payable. [Amended by 1991 c.459 §423i]

545.502 Foreclosure; procedure. Immediately, or at any time after the delinquency date fixed by the board of directors and upon the filing of the notice of claim of lien under ORS 545.494, the board by resolution may direct that all delinquent charges and assessments then unpaid, whether for operation and maintenance, construction, bond or interest, or other purpose, shall be foreclosed by the district. The foreclosure shall follow the general procedure of a suit in equity, and shall be filed in the circuit court for the county in which the land to be foreclosed is situated. If land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands therein. In addition to such charges and assessments being foreclosed, the district may recover in the suit the costs and disbursements and expenses of foreclosure, including but not limited to recording and filing fees, title search fees, foreclosure reports and a reasonable administrative fee, together with a reasonable sum as attorney fee at trial and on appeal to be allowed by the court. Any number of tracts of land, whether they are delinquent for the same or different charges or assessments, or for the same or several years, may be foreclosed in the same suit. The decree shall order the sale of the property and fix the time for holding the sale,

which shall not be more than four weeks from the date of the decree, and shall order the sheriff of the county to hold the same as other foreclosure sales upon giving notice thereof for two consecutive weeks prior to the day of sale by publication of notice once each week in a newspaper published in the county in which the land to be sold is situated, and by posting notices in three public and conspicuous places within the county at least two weeks prior to the day of sale. The irrigation district may be a bidder and purchaser of the property upon the sale. Upon the sale the sheriff shall issue deed to the property immediately. No right of redemption thereafter shall exist. [Amended by 1981 c.897 §61; 1991 c.459 §423j; 1993 c.771 §17]

545.504 Redemption of land upon or prior to foreclosure sale. At any time prior to sale, or at the time of sale, as provided by ORS 545.502, the former owner, charge or assessment payer, or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and decree may pay the amount of the lien foreclosed, together with such amount of state and county taxes as the irrigation district may have paid, and a proportionate amount of the costs incurred in the foreclosure proceeding, and withdraw the tract of land from the foreclosure and sale. Such payment shall be tendered to the clerk of the court, together with written appearance in the suit, if made prior to decree, and to the sheriff ordered to hold such sale, if after decree is entered. If payment is made before decree, the tract shall be dismissed from the foreclosure proceeding. If payment is made after decree, the district shall issue satisfaction of lien to the former owner, charge or assessment payer, or holder of legal or equitable title or lien upon the tract, and file the same for record. [Amended by 1991 c.459 §423k]

545.506 Payment of taxes by district and foreclosure thereof as part of lien. At any time after any charge or assessment under ORS 545.482 to 545.508 becomes delinquent, the irrigation district may pay any state and county taxes due or delinquent against such tracts of land as are delinquent in the payment of the irrigation district charge or assessment, and add such amount to and foreclose the same as a part of the lien of the district against such tracts. [Amended by 1991 c.459 §423L]

545.507 Borrowing for payment of operation and maintenance costs. An irrigation district whose board of directors has provided for the collection of charges and assessments of the district in the manner provided in ORS 545.484 and 545.494 to 545.508 may, when authorized by resolution of its board of directors:

(1) Borrow moneys for payment of its operation and maintenance costs and expenses in an amount not to exceed (a) 50 percent of the operation and maintenance charge per acre for each acre within the district or (b) the amount of its uncollected charges for operation and maintenance, whichever is greater; and

(2) Issue and deliver as evidence of such indebtedness the promissory notes of such district bearing interest. The promissory notes shall be payable at such time as its board of directors shall determine and may contain provisions for payment of the attorney's fees of the holder of the notes in the event suit or action is commenced for the collection of the notes. The district may agree that all or any part of such uncollected charges and assessments shall be applied in payment of such promissory notes when collected. [1955 c.362 §2; 1989 c.182 §30; 1991 c.459 §423m]

545.508 Moneys collected; deposit; separation of funds; disbursements; security for deposits. Any irrigation district collecting charges and assessments as provided in ORS 545.482 and 545.494 to 545.506 shall deposit all moneys so collected in such banks as the board of directors may determine. The amounts collected for operation and maintenance, construction, bond principal, interest, or other purposes shall be kept in separate funds and accounted for separately. Such funds shall be paid out only upon order of the board by checks or drafts signed by the president and secretary of the board. [Amended by 1967 c.451 §24; 1991 c.459 §423n]

CHARGES AND ASSESSMENTS TO PAY FOR BONDS AND INTEREST; COLLECTION BY SECRETARY

545.522 Provision for collection of charges and assessments by secretary; payment in advance of delivery of water; entry of unpaid tolls, etc., on assessment list; lien on land; collection. For the purpose of providing funds for payment of the bonds of an irrigation district and interest thereon, the board may by resolution provide for the collection of its assessments from the irrigable land within the district and require such collection to be made by the secretary of the board. The board may direct the time and manner of making such collection and may require the same to be paid in advance of the delivery of water. Any charges or assessments remaining unpaid on any land within the district at the end of an irrigation season may be placed upon an assessment list in accordance with the provisions of ORS 545.432 to 545.454. Such charges and assessments shall constitute a lien upon the land and shall be collected as provided by ORS

545.452 and 545.454. [Amended by 1969 c.694 §31; 1991 c.459 §423o]

545.524 Objections by bondholders; payment from funds otherwise obtained. In the event that any irrigation district provides for the collection of funds for the payment of bonds and bond interest in accordance with ORS 545.522 and this section, and if thereafter any holder of bonds of the district objects in writing, the district shall pay such bonds from funds obtained in the manner provided in ORS 545.204 to 545.210. [Amended by 1969 c.694 §32]

545.526 [Repealed by 1969 c.345 §20]

545.530 [1969 c.694 §33; see 545.526; repealed by 1971 c.36 §11]

ASSESSMENT TO RETIRE OUTSTANDING OPERATION AND MAINTENANCE WARRANTS

545.542 Districts providing for collection of charges by secretary; levy of percentage of annual rates. Any irrigation district which has provided for collection of operation and maintenance charges by the secretary of the board in accordance with provisions of ORS 545.108, and which has outstanding operation and maintenance warrants that have been issued for more than one year, may, upon approval of the board of directors, levy a charge not to exceed 20 percent of the annual rates fixed for operation and maintenance, such charges to be levied and collected for the purpose of retiring outstanding operation and maintenance warrants of the district.

545.544 Lands subject to assessment. Any assessment made under the provisions of ORS 545.542 to 545.548 for the purpose of providing funds for the retirement of outstanding warrants shall be assessed against all the irrigable lands within and a part of the district. Such charge shall not be made as a part of the tolls or charges to be collected from lands lying outside the district.

545.546 Collection of charges; acceptance of district warrants; disposal of moneys collected. Any irrigation district which levies any tolls or charges in accordance with the provisions of ORS 545.542 to 545.548 for the purpose of retiring operation and maintenance warrants shall collect such charges in the same manner as the annual tolls and charges for operation and maintenance are collected, except that the district shall accept warrants of the district in payment of assessments made for the purpose of retiring warrants. Upon the receipt of any moneys levied for the purpose of retiring warrants the secretary of the board shall immediately pay the same over to the treas-

urer of the district, who shall place such funds in an operation and maintenance fund.

545.548 Provisions not exclusive nor operative to relieve district of duty respecting obligations. The provisions of ORS 545.542 to 545.546 shall not be deemed exclusive and shall not relieve any irrigation district from the duty of levying sufficient sums for the payment of all outstanding obligations as otherwise provided by law.

CLAIMS AGAINST DISTRICT

545.562 Submission of claims to board; drawing of warrants; payment; lack of funds; interest on warrants; debts payable by warrants; receipt of warrants, bonds and interest coupons in payment of charges; amount of outstanding warrants; monthly report of district finances. (1) Claims against the district shall be submitted to the board upon vouchers. Upon order of the board the president and secretary shall draw warrants in payment thereof. The county treasurer shall pay such warrants, if there are funds available for that purpose. If no funds are available, the treasurer shall so indorse the warrants. From the date of such indorsement the warrants shall bear interest at the rate of not to exceed six percent per annum until paid or until notice has been given that funds are available for payment of such warrants. The warrants shall be drawn in payment of any debt, liability or obligation incurred in carrying out the provisions of the Irrigation District Act, except such payments as may be made by irrigation district bonds.

(2) The warrants shall be receivable by the tax collector when tendered in payment of maintenance charges levied against lands in the district where the warrants are issued. The tax collector shall also receive any past due bond or any past due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying the bonds or bond interest of the district. The total amount of outstanding warrants for the payment of which there are no funds available shall not exceed \$5 per acre for each acre in the district.

(3) The county treasurer shall report to the board, in writing, on the first Tuesday in each month, the amount of money in the several funds of the district, the amount of receipts for the month preceding, and the amount of items of expenditures. The report shall be verified and filed with the secretary of the board. [Amended by 1955 c.360 §1]

545.563 Establishing bank account for payment of labor and emergency expenses. (1) The board of directors of any irrigation district may withdraw from any

moneys deposited on behalf of the district an amount designated by the board and deposit it in an account with any bank approved by the board to be maintained in the name of the district for the purposes set forth in subsection (2) of this section.

(2) The account established in this section shall be used for the payment of any claims arising out of labor and emergency expenses incurred by the district during any month. Moneys may be withdrawn from the account by check signed by a person authorized to do so by the board of directors. The expenditures so made shall be ratified and audited by the board at each regular meeting. [1955 c.286 §2]

545.564 Warrants prior to 1933; over-issuance; validation. All outstanding warrants issued before June 5, 1933, by any irrigation district having outstanding warrants in excess of \$2 for each acre within the district, shall constitute a valid obligation of the district as of the respective dates of issue thereof, notwithstanding that such outstanding warrants exceed the limitation provided in ORS 545.562. The provisions of this section shall not be construed to validate any warrants issued before June 5, 1933, by any such irrigation district, which warrants were otherwise illegally issued.

CHANGE OF BOUNDARIES; MERGER; DIVISION OF DISTRICTS

545.582 Change of boundaries authorized; effect on existing rights and liabilities; approval of Secretary of Interior, when required; liens on land excluded from district. (1) Subject to the provisions of subsection (2) of this section, the boundaries of any irrigation district organized under the Irrigation District Act may be changed in the manner prescribed in ORS 545.584 to 545.612, 545.614 and 545.616 to 545.622. But such change shall not impair or affect its organization, or its right in or to property, or any of the rights or privileges of whatever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it was liable or chargeable had such change of its boundaries not been made.

(2) In case contract has been made between the district and the United States as provided in the Irrigation District Act, no change shall be made in the boundaries of the district, and the board of directors shall make no order changing the boundaries of the district, unless the written assent of the Secretary of the Interior has been obtained and filed with the board of directors. Upon such assent any lands excluded from the district shall be discharged from all liens in favor of the United States under contract with

the United States or under bonds deposited with its agents.

545.584 Petition for inclusion of lands within district. The holders of title, or evidence of title, representing a majority of the acreage of any body of land adjacent to the boundaries of any irrigation district (which body of land may include or consist of one or more parcels of less than one acre, whether or not the same are city or town lots or tracts of a platted subdivision, or chiefly available for residence purposes) may file with the board of directors of the district a petition in writing, praying that such lands be included in the district. When the body of land is located within the boundary of an incorporated city, the petition shall be approved by the governing body thereof before presentation to the board of directors. The petition shall describe the tracts or body of land owned by the petitioners, in manner and form as prescribed in this chapter for original petitions for the formation of an irrigation district. The petition shall be deemed to give assent of the petitioners to the inclusion of the district of the lands described in the petition. The petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

545.586 Notice of petition; publication; deposit for costs. The secretary of the board of directors shall cause notice of the filing of the petition to be given and published once each week, for three successive weeks, in a newspaper published in the county where the office of the board is situated. The notice shall state the filing of the petition, the names of the petitioners, a description of the lands mentioned in the petition, and the prayer of the petitioners, giving notice to all persons interested to appear at the office of the board at a time named in the notice and show cause, if any they have, why the petition should not be granted. The time specified in the notice at which it is required to show cause shall be the regular meeting of the board next after the expiration of the time for publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated cost of all proceedings under the petition before the secretary shall be required to give notice.

545.588 Hearing on petition. The board of directors, at the time and place mentioned in the notice, or at such time to which the hearing of the petition may adjourn, shall hear the petition and all objections thereto presented in writing by any person, showing cause why the petition should not be granted. The failure of any person interested to show cause shall be taken as an assent on

the part of the person to the inclusion of such land in the district as prayed for in the petition.

545.590 Liability of petitioners for obligations of district. Except as provided in ORS 545.593, the board of directors to whom the petition is presented may require as a condition precedent to the granting of the same that the petitioner shall severally pay, contract to pay or become liable to the district for such sums, as nearly as they can be estimated by the board, as the petitioners or their grantors would have been required to pay to the district, for assessments for the payment of their pro rata share of all bonds and the interest thereon previously issued by the district, had such lands been included in the district at the time it was originally formed or when the bonds were so issued. [Amended by 1959 c.276 §5]

545.592 Acceptance or rejection of petition; election where owner objects to inclusion. The board of directors, if they deem it is not for the best interest of the district to include therein the lands mentioned in the petition, shall, by order, reject the petition, but, if they deem it for the best interest of the district that the lands or any part thereof be included, the board may order that the district be so changed as to include therein the lands or any part thereof mentioned in the petition. But the board, in making any such change, shall not include in the district the lands of any owner objecting thereto without calling an election in the territory proposed to be included in which shall be submitted the question of "Inclusion—Yes," and "Inclusion—No." The election shall be conducted in the same manner as the election for organization of an irrigation district is conducted, with the irrigation district having the same powers as are conferred upon the county court in respect thereto. The election shall be decided by three-fifths of the vote cast. The order shall describe the boundaries of the land included with such exceptions as may be made.

545.593 Requirements that may be imposed upon petitioners in western Oregon district; charges or assessments. (1) Notwithstanding ORS 545.590, in any irrigation district lying entirely west of the summit of the Cascade Mountains the board of directors may require as a condition precedent to the granting of the petition that the petitioners severally pay, contract to pay, become liable to the district for or consent that the lands petitioned to be included be charged or assessed by the district for, such sums as the board of directors determines. However, these sums shall not exceed the amount the petitioners or their predecessors in interest would have been required to pay

to the district for charges and assessments for the payment of:

(a) Their pro rata share of all bonds and the interest thereon previously issued by the district, or other indebtedness previously incurred, had such lands been included in the district at the time it was originally formed, or when the bonds were so issued or such indebtedness incurred; and

(b) The cost of any additional facilities required to deliver water to the lands of the petitioners.

(2) The board of directors may provide for the payment of any charge or assessment in annual installments. The order of inclusion shall set forth the description of the lands included, the amount of the charge or assessment thereon and the manner of payment thereof. Upon recording as provided by ORS 545.594, the order is an assessment of the district upon the lands of petitioners for any bonded indebtedness or federal or state contract obligation in accordance with the provisions of the order of inclusion, and the lands are deemed to be included within the boundaries of the district.

(3) The annual installments may be included with the annual charge or assessment of the district upon the water user for district purposes, bear interest and be subject to a lien of the district upon the lands, and be collected or foreclosed in like manner and with like effect as charges and assessments of the district for district purposes.

(4) Upon foreclosure of charges or assessments of the district upon any included lands, the amount of the unpaid balance of the charge or assessment thereon provided for in subsection (1) of this section and not included in any foreclosure proceedings remains a charge and assessment lien of the district upon such lands. However, in the event the district is the purchaser at any sale on foreclosure it may, upon a resale of any lands included therein, release such lands from the lien of any unpaid balance of such charges and assessments.

(5) For the purposes of this section the summit of the Cascade Mountains is considered to be a line beginning at the intersection of the western boundary of Hood River County with the northern boundary of the State of Oregon, thence southerly along the western boundaries of the counties of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [1959 c.276 §4; 1991 c.459 §423p]

545.594 Recording of order including lands in district; effect of order; appeal.

(1) Upon the allowance of the petition and in case no protest has been filed with the board within 30 days after entry of the order, a

certified copy of the order of the board of directors making such change shall be filed for record in the office of the county clerk of each county in which are situated any lands of the district. The district as so changed and all lands therein shall be liable for all existing obligations and indebtedness of the organized district.

(2) From the action on a protest an appeal may be taken in the same manner as is provided in case of proceedings affecting the organization of a district. If the protest is not made within 30 days and appeal taken to the circuit court from action on the protest within 30 days after final hearing, the order of inclusion shall be deemed lawful and conclusive against all persons and thereafter shall not be in any manner questioned in any proceedings.

545.596 Record of petition; admissibility in evidence. Upon the filing of the copies of the order, as mentioned in ORS 545.594, the secretary shall record in the minutes of the board the petition. The minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition.

545.598 Redivision of district; appointment of directors. In case of the inclusion of any land within any district by proceedings under ORS 545.584 to 545.596 the board of directors shall, at least 30 days after the final order making such inclusion, make an order redividing the district into three divisions, as nearly equal in size as may be practicable. If none of the directors is qualified to act as a director from any newly created division, then the office of the director having the least time left to serve shall become vacant, and the remaining directors shall appoint some person qualified to act as a director from that division until the next election of officers in the district. In the event of two such vacancies the same procedure shall be followed. One director shall thereafter be elected from each division, or they may be elected from the district at large, as provided in ORS 545.014.

545.600 [Amended by 1959 c.276 §6; repealed by 1975 c.326 §5]

545.602 Exclusion of tracts; effect on status of district, rights and liabilities. The boundaries of any irrigation district organized under the provisions of the Irrigation District Act may be changed, and tracts of land which were included within the boundaries of such district at or after its organization may be excluded therefrom, in the manner prescribed in ORS 545.604, 545.612, 545.614 and 545.616 to 545.620, but neither such change of the boundaries of the district nor such exclusion of lands from the district shall impair or affect its organization, or its

right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which the district would be liable or chargeable, had such change of its boundaries not been made, or had such land not been excluded from the district. [Amended by 1993 c.392 §2]

545.604 Petition for exclusion of lands from district; approval by board; payment of costs of exclusion. (1) The owners in fee of one or more tracts of land or the holders of an uncompleted title to government or state lands which constitute a portion of an irrigation district may jointly or severally file with the board of directors a petition praying that such tracts, and any other tracts contiguous thereto, be excluded and taken from the district. The petition shall state the grounds and reason upon which it is prayed that the lands be excluded, and shall describe the boundaries thereof and the lands of the petitioners which are included within such boundaries, but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor.

(2) Upon receipt of a petition for exclusion, the board of directors shall review the petition and shall enter its order approving the petition. The board may approve the petition subject to the requirements of ORS 545.582 (1), 545.602 or 545.620 or may approve the petition without conditions, as the board considers appropriate. The board, as a condition of exclusion, may require the petitioners to pay all costs of exclusion, including but not limited to recording fees, a reasonable administrative fee and all past due charges and assessments of the district attributable to the petitioners and the lands of the petitioners. When any district facilities, including but not limited to ditches, pipelines, headgates or other waterworks, are on the lands of the petitioners, if the petitioners propose to change the use of the land, the district may require the petitioners to provide measures to protect those facilities and that appropriate easements be provided if there are none of record. [Amended by 1993 c.392 §3]

545.606 [Repealed by 1993 c.392 §6]

545.608 [Repealed by 1993 c.392 §6]

545.610 [Amended by 1975 c.72 §1; 1991 c.459 §423q; repealed by 1993 c.392 §6]

545.611 Exclusion of subdivisions with three or more tracts on each acre of land. (1) All subdivisions platted after September 13, 1975, pursuant to ORS 92.010 to 92.190 shall be excluded and taken from the district pursuant to ORS 545.602 to 545.620

at the time that the plat is approved by the appropriate governing body if the subdivision has three or more tracts on each acre of land within the subdivision.

(2) The exclusion provided in subsection (1) of this section shall not apply to a district which:

(a) Also supplies domestic water approved by the Health Division to the subdivision; or

(b) Will supply water to each lot or parcel in the subdivision through underground pipe to be installed by the subdivider and shown on the plat approved by the appropriate governing body. As a condition to supplying water under this paragraph, a district may require the installation by the subdivider of a meter or other adequate measuring device at the delivery point to the subdivision and for each lot or parcel. [1975 c.293 §2; 1993 c.392 §4]

545.612 Assent of bondholders required. If there are outstanding bonds of the district at the time of the filing of the petition, the holders may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from the district by order of the board, may be excluded from the district. If such lands, or any portion thereof, are thereafter excluded from the district, they shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the bondholders in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of a conveyance. The assent shall be filed with the board and be recorded in the minutes of the board. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the assent. The certified copy may be recorded in the office of the county clerk of the county wherein the lands are situated.

545.613 [1965 c.576 §2; 1975 c.72 §2; 1985 c.581 §1; repealed by 1991 c.459 §423s]

545.614 Recording minutes of board; status of district. In the event the board of directors excludes any lands from the district upon petition therefor, the board shall make an entry in its minutes describing the boundaries of the district, if the exclusion changes the boundaries of the district. For that purpose the board may have a survey made of such portions of the district as it deems necessary. A certified copy of the entry of the minutes of the board excluding any land, certified by the secretary of the board, shall be filed for record in the county clerk's office of each county within which is

situated any land of the district. The district, notwithstanding such exclusion, shall remain an irrigation district as fully, to every intent and purpose, as it would have been had no change been made in its boundaries, or had the lands excluded therefrom never constituted a portion of the district.

545.615 State agency to pay assessment and charges on petition for exclusion. Every state agency acquiring land within the boundaries of an irrigation district shall either pay all assessments and other charges which may be lawfully charged by the irrigation district and chargeable to the owner or occupier of such land or shall file with the board of directors of the district a petition that such lands be excluded from the district in accordance with ORS 545.602 to 545.620. [1965 c.576 §3; 1991 c.459 §423r]

545.616 Filling vacancy in director's office. If the lands excluded from any district under ORS 545.602, 545.604, 545.612 and 545.614 embrace the greater portion of any division of the district, then the office of director for that division shall become vacant at the expiration of 10 days from the final order of the board excluding the lands. The vacancy shall be filled by appointment by the county court of the county where the office of the board is situated, from the district at large. A director appointed as above provided shall hold office until the next regular election for the district, and until a successor is elected and qualified. [Amended by 1993 c.392 §5]

545.618 Redivision of district. At least 30 days before the next general election of such district, the board of directors shall make an order dividing the district into three divisions as nearly equal in size as may be practicable, which shall be numbered first, second and third, and one director shall be elected by each division. For the purpose of elections in such district the board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which precincts may be changed from time to time as the board may deem necessary. This section shall not apply to any irrigation district in which the directors, at the time of such exclusion, have been elected by the district at large.

545.620 Liability of excluded lands for district's obligations. Nothing in ORS 545.602 to 545.618 shall in any manner operate to release any lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of the district at the time of the filing of the petition for exclusion of the lands, but on the contrary said lands shall be held subject to the lien, and answerable and chargeable for and with the

payment and discharge of all outstanding obligations at the time of the filing of the petition, as fully as though the petition were never filed and the order of exclusion never made. If lands were subdivided into small tracts of less than one acre after the bonded indebtedness is apportioned to the lands on a per acre basis, the required payments shall be computed to the nearest one-tenth acre. For the purpose of discharging the outstanding indebtedness, the lands so excluded shall be deemed and considered as part of the irrigation district. All provisions which might have been resorted to, to compel the payment by the land of its quota or portion of the outstanding obligation, had the exclusion never been accomplished, may, notwithstanding the exclusion, be resorted to, to compel and enforce the payment on the part of the land of its quota or portion of the outstanding obligations of the irrigation district for which it is liable. But the land so excluded shall not be held answerable or chargeable for any obligation incurred after the filing of the petition for exclusion. The provisions of this section shall not apply to any outstanding bonds or other obligations or indebtedness the holders of which have assented to the exclusion of such lands from the district. [Amended by 1975 c.72 §3]

545.622 Union or merger of districts; petition; approval of board; election; indebtedness. An irrigation district may be united, merged and included within another irrigation district by the board of directors causing a petition showing the indebtedness of the district and the boundaries thereof to be presented to the board of directors of the district in which it is desired to be included. The petition may be accepted or rejected by the latter board in its discretion. If accepted, an election shall be ordered by such board in the district desiring to be included, in which shall be submitted the questions, "Merger—Yes," and "Merger—No," which questions shall be determined by a majority vote of the qualified voters. The election shall be conducted in the same manner as an election for the organization of an irrigation district, and the board shall have the same powers and authority in conducting the same as are possessed by the county court in organizing an irrigation district. If the vote is "Merger—Yes," the indebtedness of each district shall be determined and entered upon the records and a division of such indebtedness ordered which shall be binding in the future. Thereafter the districts shall be one district, the lands therein included to the same extent and effect in all respects as if originally included.

545.624 Division of district; petition; order of directors; election of directors

from divisions. Whenever, in any irrigation district having an area in excess of 30,000 irrigable acres, a petition signed by legal voters of the district equaling in number at least 20 percent of the number of votes cast at the last preceding general election for the office of director in the district is filed with the secretary of the board of directors of the district, requesting the division of the district, the board, at least 30 days before the next general election of the district, shall make an order dividing the district into three divisions as nearly equal in size as practicable, and defining and particularly describing their boundaries, making use insofar as practicable of such natural boundaries as may exist in the district. The divisions shall be numbered first, second and third. One director shall be elected from each division to the board of directors of the district, as by law provided for irrigation districts so divided; provided that nothing in ORS 545.624 to 545.628 shall be construed to prevent the present directors from serving out the unexpired portion of their terms. [Amended by 1985 c.581 §2]

545.626 Election of directors from newly created divisions. At the general election of the district next following any such division, the office of the director whose term expires the following January shall be filled by election of a director from the newly created division which is without representation on the board, and if there are

two such divisions, then from the newly created division without representation on the board that contains the largest number of electors, in which event the other newly created division shall elect a director at the second general election following the division, which director shall take office at the expiration of the term of the second retiring member of the board.

545.628 Election precincts in divisions; alteration. For the purpose of elections in such district, the board of directors must establish a convenient number of election precincts in the divisions and define the boundaries thereof. The precincts may be changed from time to time as the board deems necessary.

545.652 [Repealed by 1973 c.415 §14]

545.654 [Repealed by 1973 c.415 §14]

545.656 [Repealed by 1973 c.415 §14]

545.658 [Repealed by 1973 c.415 §14]

545.660 [Repealed by 1973 c.415 §14]

545.662 [Repealed by 1973 c.415 §14]

545.664 [Repealed by 1973 c.415 §14]

545.666 [Repealed by 1973 c.415 §14]

545.990 [Repealed by 1969 c.344 §8]

CHAPTER 546

[Reserved for expansion]