Chapter 523

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GENERAL PROVISIONS

523.010 Definitions. As used in this chapter unless the context requires otherwise:

(1) "Board" or "board of commissioners" means the governing body of a district.

(2) "By-product" means any mineral or minerals (exclusive of oil, hydrocarbon gas, helium or other hydrocarbon substances) which are found in solution or in association with geothermal resources and which have a value of less than 75 percent of the value of the geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves.

(3) "District" means a geothermal heating district formed under this chapter.

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

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

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

(7) "Geothermal heat" means heat derived from geothermal resources.

(8) "Geothermal resources" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of oil, hydrocarbon gas, helium or other hydrocarbon substances, but including, specifically:

(a) All products of geothermal processes, embracing indigenous steam, hot water and hot brines;

(b) Steam and other gases, hot water and hot brines resulting from water, gas or other fluids artificially introduced into geothermal formations;

(c) Heat or other associated energy found in geothermal formation; and

(d) Any by-product derived from them.

(9) "Inhabitant" when used with respect to a district includes a business located within the district.

(10) "Owner" means the holder of the record title to real property or the vendee under a land sale contract, if there is such a contract. [1975 c.782 §1; 1983 c.83 §98]

CREATION AND POWERS

523.015 Definitions for ORS 523.020. For the purposes of ORS 523.020 and this section, notwithstanding ORS 523.610 to 523.670, "board," as defined in ORS 523.010, includes the governing body of a city. "District," as defined in ORS 523.010, includes an incorporated city. [1977 c.212 §1]

Note: 523.015 and 523.020 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 523 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

523.020 City as geothermal heating district. (1) An incorporated city, when empowered by its charter to do so, may provide geothermal heating services to persons within and without its boundaries in accordance with the provisions of ORS chapter 523, where not in conflict with ORS 523.015 and this section.

(2) The powers conferred by ORS chapter 523 and ORS 523.015 and this section are in addition to the powers conferred by any other law and not in substitution for any right, power or privilege vested in a city. [1977 c.212 §2]

Note: See note under 523.015.

523.030 Formation of geothermal heating districts; disposal of surplus; exclusion from district. A geothermal heating district may be formed for the purpose of supplying inhabitants of the district with geothermal heat as provided by this chapter. In connection with supplying geothermal heat, a district may supply, furnish and sell for any use any surplus geothermal heat over and above the heating needs of its inhabitants to persons outside the district, or to school districts or other local governments as defined in ORS 174.116. All railroad rights of way or improvements thereon or rolling stock moving thereover shall be excluded from districts organized under ORS 198.010, 198.180, 198.510, 198.705, 199.420, 255.012, 366.321, 451.573 and this chapter and for purposes of this chapter shall not be considered as property within the boundaries of such districts, unless the owner of the railroad property expressly consents to its inclusion. [1975 c.782 §2; 2003 c.802 §128; 2007 c.179 §8]

523.040 Powers of district; emergency power; applying for financing gifts and grants. (1) A district formed under this chapter shall have the power to make contracts, hold and receive and dispose of real and personal property within and without its described boundaries and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the district or exercising the powers conferred upon it by this chapter, sue and be

sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it.

(2) In an emergency or in order to meet peak demand a district may supply its inhabitants with heat derived from an energy source other than from geothermal resources for purposes of supplementing the geothermal heat supplied by the district.

(3) In addition to any other power of a district, it may apply and qualify for and receive any private or federal grants, loans or other funds available for carrying out the objects of the district. [1975 c.782 §3]

523.050 Water and real property transactions; right to obtain geothermal heat from other sources. A geothermal heating district may purchase, sell and hold interests in water and real property in carrying out the objects of the district. A district also has the right to purchase or obtain from cities or other geothermal heating districts, geothermal heat, or an interest in geothermal heat, or an interest in a geothermal heat pipeline owned or operated by a city or other geothermal heating district, or to obtain jointly with a city or other geothermal heating district, any right, or to lay and own individually or jointly with any city or other geothermal heating district, any geothermal heat pipeline for the purposes specified in ORS 523.030. [1975 c.782 §5; 2003 c.802 §129]

523.060 Cooperative agreements; bonds. (1) Districts may enter into cooperative agreements with each other providing for the joint acquisition, construction, ownership, use or control of facilities for the collection, treatment, distribution or supply of geothermal heat.

(2) Each district may issue and sell general obligation, revenue or refunding bonds, subject to the limitations and procedures contained or referred to in this chapter for the authorization, issuance or sale of such bonds, for the purpose of paying its share of the cost of the acquisition or construction of facilities provided for in cooperative agreements authorized by this section. [1975 c.782 §18]

523.070 Authority to perform drainage work. Any district may perform drainage work for the purpose of reclaiming real property located within the district, protecting real or personal property located within the district from the effects of geothermal heating, promoting sanitation, providing for the public health, convenience and welfare or providing services of public utility or benefit. The district may use all applicable powers granted to it by this chapter, including the rights and powers of eminent domain, in performing the drainage work authorized by this section. [1975 c.782 §17]

OPERATION

523.110 Regulations on use of geothermal heat; effect of failure to comply. Any district may adopt and promulgate regulations concerning the use of geothermal heat and the property of the district. The board of commissioners may refuse to supply any building, place or premises with geothermal heat where the user fails after 10 days' written notice to comply with the regulations. The written notice shall be by registered mail or by certified mail with return receipt and shall be deemed given when it is deposited in the United States Post Office properly addressed with postage prepaid. [1975 c.782 §11; 1991 c.249 §40]

523.120 Deposit or other security for use of heat. Any district may require a reasonable cash deposit or an irrevocable letter of credit to insure payment for the use or rent of geothermal heat to be furnished by the district. [1975 c.782 §12; 1991 c.331 §75]

523.130 Rates; contracts with users. A geothermal heating district shall charge consumers for the geothermal heat furnished and fix and collect the rates therefor. Rates charged may be fixed and classified according to the type of use and according to the amount of geothermal heat used. Any contract entered into by a district with persons other than domestic users shall provide for immediate cancellation whenever no surplus supply of geothermal heat exists over and above any and all demands of domestic users. A district also may contract with any person or may enter into an intergovernmental agreement under ORS chapter 190 to supply, furnish and sell surplus geothermal heat on such terms and conditions and at such rates as the board of commissioners considers advisable. [1975 c.782 §13; 2003 c.802 §130]

523.140 Rate increase procedure. (1) Whenever any increase is proposed in the existing rates charged geothermal heat consumers by a district pursuant to ORS 523.130, the board of commissioners shall first provide for a public hearing on such proposal before any increased rates are ordered into effect.

(2) The public hearing required under subsection (1) of this section shall be held at a place designated by the board after notice thereof has been given by inclusion of a notice of the public hearing in the geothermal heating bills sent to consumers by the district during the period of 30 days prior to the date of the hearing. [1975 c.782 §14]

523.150 Termination of service for nonpayment of heating charge. In case prompt payment of geothermal heating rent or charge is not made, a district may shut off the geothermal heating supply to the building, place or premises to which the district supplied the geothermal heating. [1975 c.782 §15]

523.160 Refund of heating service extension costs by owner of adjacent property. If any person is required by a district to pay the cost of extending a geothermal heating pipeline adjacent to property other than the property of the person so that geothermal heating service is provided for such other property without further extension of the geothermal heating pipeline, the district shall require the owner of the other property, prior to providing geothermal heating service to that property, to refund to the person required to pay the cost of extending the geothermal heating pipeline, a pro rata portion of the cost of the extension. The right to require such refund shall not continue for more than 10 years after the date of installation of the extension of the geothermal heating pipeline. The amount to be refunded shall be determined by the district and such determination shall be final. [1975 c.782 §16]

ASSESSMENTS

523.210 Special assessment for improvements; report; contents. Whenever the district board considers it necessary, upon its own motion, or upon the petition of the owners of one-half of the property that benefits specially from the improvement, to make any improvement to be paid for in whole or in part by special assessment according to benefits, the board shall, by motion, cause a survey and written report for such project to be made and filed with the secretary. Unless the district board directs otherwise, the report shall contain:

(1) A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

(2) Plans, specifications and estimates of the work to be done; however, where the proposed project is to be carried out in cooperation with any other governmental agency, the district board may adopt the plans, specifications and estimates of such agency.

(3) An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto.

(4) An estimate of the unit cost of the improvement to the specially benefited properties.

(5) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

(6) The description and assessed value of each lot, parcel of land or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.

(7) A statement of outstanding assessments against property to be assessed. [1975 c.782 §19]

523.220 Action on special assessment report by board. After the report has been filed with the secretary, the district board may by motion approve the report, modify the report and approve it as modified, require additional or different information for the improvement, or it may abandon the improvement. [1975 c.782 §20]

523.230 Approval of special assessment report; notice of improvement; contents. After the district board approves the report as submitted or modified, the board shall, by resolution, declare its intention to make the improvement, provide the manner and method of carrying out the improvement and direct the secretary to give notice of the improvement. Such notice shall be given by two publications one week apart in a newspaper of general circulation within the district, and by mailing copies of the notice by registered or certified mail to the owners to be assessed for the costs of the improvement. The notice shall contain the following:

(1) That the report of the improvement is on file in the office of the secretary and is subject to public examination.

(2) That the district board will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 10 days following the first publication of notice, at which objections and remonstrances to the improvement will be heard by the board; and that if prior to such hearing there shall be presented to the secretary valid, written remonstrances of the owners of two-thirds of the property or two-thirds of the front footage of the property to be specifically affected for the improvement, then the improvement will be abandoned for at least six months, unless the improvement is unanimously declared by the district board to be needed at once because of an emergency.

(3) A description of the property to be specially benefited by the improvement, the owners of the property and the estimate of the unit cost of the improvement to be paid

for by special assessments to benefited properties. [1975 c.782 §21]

523.240 Means of constructing improvement. The board of a geothermal heating district may provide in the improvement resolution that the construction work will be done in whole, or in part, by the district, by a contract or by any other public body as defined in ORS 174.109, or by any combination thereof. [1975 c.782 §22; 2003 c.802 §131]

523.250 Order to carry out or abandon improvement after public hearing; assessment ordinance. (1) At the time of the public hearing on the proposed improvement, if the written remonstrances represent less than the amount of property required to defeat the proposed improvement, if such an improvement is one that can be remonstrated against, then on the basis of such hearing of written remonstrances and oral objections, if any, the district board may, by motion, at the time of the hearing or within 60 days thereafter, order the improvement to be carried out in accordance with the resolution, or the district board may, on its own motion, abandon the improvement.

(2) After the public hearing on the proposed improvement and after the district board has moved to proceed with the improvement, it may pass an ordinance assessing the various lots, parcels of land or parts thereof, to be specially benefited with their apportioned share of the cost of the improvement; but the passage of an assessment ordinance may be delayed until the contract for the work is let, or until the improvement is completed and the total cost thereof is determined. [1975 c.782 §23]

523.260 Method of assessment. The district board in adopting a method of assessment of the costs of the improvement may:

(1) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

(3) Authorize payment by the district of all, or any part, of the cost of any such improvement, when in the opinion of the board the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the improvement. [1975 c.782 §24]

523.270 Appeal of assessment. Any person feeling aggrieved by the assessments made under an assessment ordinance may, within 20 days after the passage of the ordinance levying the assessment by the district board, appeal to the circuit court for the county in which the district is located. The appeal and the requirements and formalities thereof shall be heard, governed and determined, and the judgment thereon rendered and enforced, in the manner provided for appeals from assessments in ORS 223.005 to 223.105 and 223.205 to 223.930. The result of the appeal shall be a final and conclusive determination of the matter of the assessment, except with respect to the district right of reassessment provided by ORS 523.360. [1975 c.782 §25]

523.280 Notice of assessment to property owners; publication; contents. Within 10 days after the ordinance levying assessments is adopted, the secretary of the district shall send by registered or certified mail a notice of assessment to the owner of the assessed property, and shall publish notice of the assessment twice in a newspaper of general circulation in the district, the first publication of which shall be made not later than 10 days after the date of the assessment ordinance. The notice of assessment shall recite the date of the assessment ordinance and shall state that upon the failure of the owner of the property assessed to make application to pay the assessment in installments within 10 days from the date of the first publication of notice, or upon the failure of the owner to pay the assessment in full within 30 days after the date of the assessment ordinance, then interest will commence to run on the assessment and the property assessed will be subject to foreclosure. The notice shall also set forth a description of the property assessed, the name of the owner of the property and the amount of each assessment. [1975 c.782 §26]

523.290 Entry of amount of assessment; lien; priority; foreclosure. After passage of the assessment ordinance by the district board, the secretary shall enter in the docket of district liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of a district shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state permit. Interest shall be charged at the rate of six percent per annum until paid on all

amounts not paid within 30 days from the date of an assessment ordinance. After expiration of 30 days following the date of an assessment ordinance the district may proceed to foreclose or enforce collection of the assessment liens in the amount provided by the general law of the state. However, the district may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state to redeem the property. [1975 c.782 §27]

523.310 Errors in assessment. Claimed errors in the calculation of assessments shall be called to the attention of the secretary of the district, who shall determine whether there has been an error in fact. If the secretary finds that there has been an error in fact, the secretary shall recommend to the district board an amendment to the assessment ordinance to correct the error. Upon enactment of the amendment, the secretary shall make the necessary correction in the lien docket and send a correct notice of assessment by registered or certified mail. [1975 c.782 §28]

523.320 Deficit assessment; hearing; objections; notices. In the event that an assessment is made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the district board may, by motion, declare such deficit and prepare a proposed deficit assessment. The board shall set a time for a hearing of objections to such deficit assessment and shall direct the secretary to publish one notice thereof in a newspaper of general circulation in the district. After the hearing the board shall make a just and equitable deficit assessment by ordinance, which shall be entered in the lien docket as provided by ORS 523.210 to 523.380. Notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with ORS 523.280 and 523.290. [1975 c.782 §29]

523.330 Excess assessment; credit; rebate. Upon the completion of the improvement project, if it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of the improvements, the district board shall ascertain and declare the amount of the excess by ordinance. When declared, the excess amounts shall be entered on the lien docket as a credit upon the appropriate assessment. If any assessment has been paid, the person who paid it, or the legal representative of the person, shall be entitled to the repayment of the rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment. [1975 c.782 §30]

523.340 Abandonment of improvement; cancellation of liens; refunds. The district board may abandon proceedings for an improvement at any time prior to the final completion of the improvement. If liens have been assessed upon any property under ORS 523.210 to 523.380, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, the assigns or legal representatives of the person. [1975 c.782 §31]

523.350 Restriction on rendering assessment invalid; correction by board. No improvement assessment shall be rendered invalid by reason of a failure of the improvement report to contain all of the information required by ORS 523.210, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by ORS 523.210 to 523.380, or by reason of any other error, mistake, delay, omission, irregularity or other act, jurisdiction or otherwise, in any of the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The district board may remedy and correct all such matters by suitable action and proceedings. [1975 c.782 §32]

523.360 Reassessment. Whenever any assessment, deficit assessment or reassessment for any improvement which has been made by the district is set aside, or its enforcement restrained by any court having jurisdiction thereof, or when the district board is in doubt as to the validity of an assessment, deficit assessment or reassessment, or any part thereof, the district board may make a reassessment in the manner provided by ORS 223.405 to 223.485. [1975 c.782 §33]

523.370 [1975 c.782 §34; repealed by 1995 c.333 §37]

523.380 Foreclosure of assessment lien. (1) In case the whole or any portion of the cost of an improvement is assessed against the property directly benefited and the owner of the property fails to pay the amount of the lien, or any portion thereof, or the interest thereon, when they become due, the board may proceed to foreclose the lien in any manner provided by law for the collection of liens by municipalities and may provide by ordinance a general procedure for the collection of liens in any manner not inconsistent with law.

(2) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be

available to districts where applicable. [1975 c.782 §35]

TAXING POWER

523.410 Ad valorem taxation; special tax; collection; enforcement; boundary changes. (1) A district may assess, levy and collect taxes in an amount each year not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the limits of the district, computed in accordance with ORS 308.207. The proceeds of the tax shall be applied by it in carrying out the objects and purposes of ORS 523.030 to 523.050 and 523.420 to 523.490 and for the purpose of financing the employees' retirement system.

(2) A district may annually also assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds theretofore issued by the district and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of interest and principal of bonds issued by the district, but the district may apply any funds it may have toward payment of principal and interest of any such bonds.

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

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

(5) Property is subject to sale for nonpayment of taxes levied by the district in like manner and with like effect as in the case of county and state taxes.

(6) For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [1975 c.782 §10; 1991 c.459 §421; 2001 c.215 §16; subsection (6) of 2001 Edition enacted as 2001 c.138 §40]

523.420 Disposal of taxes levied by invalid district. When an attempt has been made to organize a district under the provisions of this chapter and subsequently by a judgment of a court it has been declared that the organization is invalid, but prior to such judgment the invalid organization has levied taxes, the funds derived from the levy shall be disposed of as follows:

(1) If the area embraced in the invalid organization is embraced in a subsequently created organization composed of unincorporated or incorporated territory, or combinations thereof, for the purpose of furnishing geothermal heat to the inhabitants thereof, the custodian of the taxes collected for the invalid organization shall turn them over to the subsequent organization to be used only for the purpose of furnishing geothermal heat to such inhabitants.

(2) If the subsequent organization does not embrace all territory embraced in the invalid organization, such taxes as have been collected from the levy upon property in areas not embraced in the subsequent organization shall be refunded to the payers thereof by the custodian of the taxes before the balance is turned over to the subsequent organization.

(3) If no such subsequent organization is created to provide geothermal heat for the inhabitants of such an area, within a period of two years after the entry of the judgment of invalidation, the taxes collected shall be refunded by the custodian of them to the taxpayers who paid them. [1975 c.782 §4; 2003 c.576 §468]

BONDS

523.460 General obligation bonds; limit; issuance; maturity; interest; election; pledge of revenue. (1) For the purpose of carrying into effect all or any powers granted by this chapter, the district, when authorized at any properly called election held for that purpose, may borrow money and sell and dispose of general obligation bonds. Except as otherwise provided by this section, the bonds shall never exceed in the aggregate two and one-half percent of the real market value of all taxable property within the limits of the district, computed in accordance with ORS 308.207.

(2) The bonds shall be issued from time to time by the board of commissioners in behalf of the district as authorized by the voters, and may be issued in an amount not to exceed one-half of one percent of the real market value referred to in subsection (1) of this section without the approval of the electors. The bonds shall mature serially within not to exceed 30 years from issue date, and shall bear interest not exceeding seven percent per annum payable semiannually as the board shall determine. The bonds shall be so conditioned that the district agrees to pay to the bearer, at a place named, the principal sum of the bonds with interest at the rate named, payable semiannually in accordance with the tenor and terms of the interest coupons attached.

(3) If the district has within its corporate limits a population of 300 or over, it may issue bonds in an amount which shall not exceed in the aggregate 10 percent of the real market value referred to in subsection (1) of this section.

(4) For the purpose of additionally securing the payment of the principal and interest on general obligation bonds issued under this section, the district may, by resolution of its board which shall constitute part of the contract with the holders of the bonds, pledge all or any part of the net revenue of its geothermal heating system. The board may adopt such a resolution without submitting the question of the pledge to the electors of the district. [1975 c.782 §6; 1977 c.188 §7; 1983 c.347 §29; 1991 c.459 §422; 2001 c.215 §17]

523.470 Revenue bonds; terms; issuance. In addition to the authority to issue general obligation bonds, the district, when authorized at any properly called election, shall have the power to sell and dispose of revenue bonds, and to pledge as security therefor all or any part of the unobligated net revenue of the district or system, to purchase, acquire, lay out, construct, reconstruct, extend, enlarge or improve a geothermal heating system, for the purpose of obtaining geothermal heating for the use of consumers, within or without the boundaries of the district. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district, but they shall be payable, both as to principal and interest, from revenues only, as specified by this section. The revenue bond shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien upon any of the taxable property within the corporate limits of such district, but shall be payable solely from such part of the revenues of the district as remain after payment of obligations having a priority and of all expenses of operation and maintenance of the district, including any taxes levied against it. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the district remaining after paying such obligations and expenses. [1975 c.782 §7]

523.480 Refunding bonds. Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution duly adopted by the board of commissioners without submitting to the electors the question of authorizing the issuance of such bonds. [1975 c.782 §8]

523.490 Issuance of bonds. All general obligation and revenue bonds, including refunding bonds, authorized under ORS 523.460 to 523.480 shall be issued as prescribed in ORS chapter 287A. [1975 c.782 §9; 2007 c.783 §212]

DISSOLUTION

523.510 Assumption of debts and obligations of district upon dissolution. (1) A city may enter into a written agreement with a geothermal heating district contemplating dissolution undertaking to assume, in the event of such dissolution, all of the outstanding debts and obligations of the district and to continue to furnish geothermal heat to the inhabitants of the dissolving district for domestic and municipal use for a term therein specified, not to exceed 25 years. Subject to the provisions of this section, the successor city shall, if the dissolution is approved, have the powers and assume the responsibilities of geothermal heating districts under this chapter. Any person entitled to geothermal heating service within the area of the dissolved district has the same remedies at law or in equity to enforce the rights to geothermal heating service as are available to enforce the right to geothermal heating service within the district.

(2) The successor city or district shall furnish geothermal heat to persons owning or occupying property within the dissolved district on the same terms and conditions as in the case of those owning or occupying property within the city, or elsewhere within the district. If the district assets and obligations are transferred to a city, the city may charge a rate for the service that is no more than the rate which is uniformly applied to all users in similar classifications outside the city. No such differential rate may be charged, however, unless such a differential is provided for, and specifically limited, by the terms of the agreement made prior to the dissolution. Nothing in this section authorizes a city to levy an ad valorem real property tax on property outside the city or district.

(3) Any debts or obligations assumed by the successor city by reason of, or during the period of, its commitment under the agreement shall bind the city until they are fully paid and discharged. No contract shall be effective unless all of the terms thereof are reduced to writing, signed by the entities and filed with the county clerk. [1975 c.782 §47]

ADMINISTRATION

523.610 Board; election; authority; term; vacancy. (1) Except as otherwise provided by this chapter, the power and authority given to districts is vested in and shall be exercised by a board of five commissioners, each of whom shall be an elector registered in the district. Except as provided by subsection (2) of this section, each commis-

sioner shall be elected for a term of four years.

(2) Not later than the 40th day after the formation of a district and the election of the members of the first board, the commissioners shall meet and organize, first taking and subscribing an oath of office. The commissioners first elected shall determine by lot the length of term each shall hold office as follows:

(a) The terms of two commissioners shall expire June 30 next following the first regular district election; and

(b) The terms of the other three commissioners shall expire June 30 next following the second regular district election.

(3) The board of commissioners shall fill any vacancy on the board as provided in ORS 198.320. [1975 c.782 §36; 1983 c.83 §99; 1983 c.350 §295]

523.620 [1975 c.782 §37; repealed by 1983 c.350 §331]

523.625 Election laws applicable. (1) ORS chapter 255 governs the following:

(a) The nomination and election of commissioners.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [1983 c.350 §298]

523.630 Meetings; officers; quorum; employees; employee benefits. (1) The board of commissioners shall hold meetings at such time and place within the district as it may determine. The board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings under such rules as it may make.

(2) The board shall, at the time of its organization, choose from the commissioners a president, a secretary and a treasurer, who shall hold their offices until the first regular meeting in January, or until their successors are elected and qualified. The officers shall have, respectively, the powers and shall perform the duties usual in such cases. A majority shall constitute a quorum to do business and, in the absence of the president, any other member may preside at a meeting.

(3) The board of commissioners may employ engineers, superintendents, mechanics, clerks or other persons as it may find requisite, necessary or convenient in carrying on any work of the district and at a rate of remuneration as it may consider just.

(4) The board may provide life insurance and retirement or pension plans for employees of a district, if the insurer issuing the policy is licensed to do business in the State of Oregon. [1975 c.782 §39]

523.640 Special election. The board of commissioners at any regular meeting may call a special election of the electors of the district. [1975 c.782 §38]

523.650 [1975 c.782 §40; repealed by 1983 c.350 §331]

523.660 District funds; deposit; records. (1) The money of a district shall be deposited in one or more depositories, as defined in ORS 295.001, to be designated by the board of commissioners. The money shall be withdrawn or paid out only when previously ordered by vote of the board, and upon checks signed by the treasurer or such other person as may be authorized by resolution of the board. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) All the proceedings of the board of commissioners shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the district shall be carefully preserved and shall be open to inspection as public records. [1975 c.782 §41; 2001 c.215 §18]

523.670 Agreements between district and annexed or joined city. If a city has been annexed to a district under ORS 198.866 and 198.867 or joined to a district under ORS 198.910, the city and the district may:

(1) Enter into contracts and agreements to do any act or thing which either could have done if the annexation had not occurred.

(2) Contract and agree for the collection by the district of any geothermal heat tax or charge imposed by the city upon geothermal heat users within the territory of the city, and the district thereupon may provide for such collection according to its rules and regulations for the collection of amounts due the district by geothermal heat users, including but not limited to shutting off the geothermal heat supply for nonpayment. [1975 c.782 §42; 1983 c.142 §17]

523.680 Employees' retirement system; establishment; contents. (1) A district may establish an employees' retirement system. The board of commissioners may enter into agreements necessary to establish the system and carry out the plan and may agree to modifications of such agreements from time to time.

(2) The retirement plan may provide for retirement benefits measured on the basis of services rendered or to be rendered by an employee, either before or after the date on which such employee first becomes a member of the retirement plan. The retirement plan may provide for a minimum of years of service and a minimum and maximum age of retirement for the employee. [1975 c.782 §43]

523.690 Payments to retirement plan fund. The district may budget and provide for payment into the fund of the retirement plan an amount sufficient:

(1) To provide on an actuarial reserve basis the amortized level premium cost of the retirement benefits which, under the provision of the retirement system, are to be provided by the district to its employees who attain the retirement age or retire in accordance with the terms of the retirement plan.

(2) To meet the actuarially computed costs of retirement benefits measured on the basis of services rendered or to be rendered by an employee before or after the date on which such employee becomes a member of the retirement plan. [1975 c.782 §44]

523.700 Employee contributions to retirement plan. The district may collect, as a contribution from any employee, that percentage of the salary received by the employee which is necessary to fund on an actuarial reserve basis the cost of retirement benefits which the employee is required to provide pursuant to the provisions of a retirement plan. [1975 c.782 §45]

523.710 Limit on eligible individuals in retirement plan. Nothing in this chapter authorizes the district to budget, provide for payments or collect contributions to fund retirement benefits for an individual who is not in the employment of the district at the time of the creation of a membership status under a retirement plan. [1975 c.782 §46]

CHAPTERS 524 AND 525

[Reserved for expansion]