Chapter 264 — Domestic Water Supply Districts

2001 EDITION

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GENERAL PROVISIONS

264.010 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) "District" means a domestic water supply district formed under this chapter.

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

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

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

(6) "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. [Amended by 1969 c.666 §1; 1983 c.83 §38]

264.015 Application of ORS chapter 255. (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 §105]

264.020 [1955 c.676 §3; 1969 c.666 §49; repealed by 1971 c.647 §149]

INCORPORATION

264.110 Incorporation of communities for supply of water; sale of surplus; exemptions. Communities may be incorporated for the purpose of supplying their inhabitants with water for domestic purposes as provided by this chapter; and, in connection therewith, may supply, furnish and sell for any use any surplus water over and above the domestic needs of its inhabitants to any persons, corporations or associations, either within or without the district, or to other communities, water districts or municipal corporations. All railroad rights of way or improvements thereon or rolling stock moving thereover shall be excluded from districts organized after June 9, 1943, and for purposes of ORS 264.210 to 264.320, 264.410, 264.420, 264.430, 264.470 and this section shall not be considered as property within the boundaries of such districts, unless the owner of the railroad property expressly consents to its inclusion. [Amended by 1969 c.666 §2]

264.115 [1953 c.681 §2; 1955 c.213 §1; 1969 c.666 §3; repealed by 1971 c.727 §203]

264.118 [1953 c.681 §3; 1955 c.110 §1; 1969 c.666 §4; repealed by 1971 c.727 §203]

264.120 [Repealed by 1953 c.681 §13]

264.121 [1953 c.681 §4; 1969 c.666 §5; repealed by 1971 c.727 §203]

264.124 [1953 c.681 §§5, 7; 1969 c.666 §6; repealed by 1971 c.727 §203]

264.127 [1953 c.681 §6; 1969 c.666 §50; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

264.130 [Repealed by 1953 c.681 §13]

264.140 [Amended by 1955 c.213 §2; repealed by 1971 c.647 §149]

264.142 [1953 c.681 §8; 1969 c.666 §7; repealed by 1971 c.647 §149]

264.144 [1953 c.681 §9; 1969 c.666 §8; repealed by 1971 c.647 §149]

264.148 [1953 c.681 §10; repealed by 1971 c.647 §149 and by 1971 c.727 §263]

264.150 [Repealed by 1953 c.681 §13]

264.154 [1953 c.681 §11; 1969 c.666 §9; repealed by 1971 c.727 §203]

264.156 [1953 c.681 §12; 1969 c.666 §10; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

264.160 [Amended by 1969 c.666 §11; repealed by 1971 c.727 §203]

264.170 [Amended by 1955 c.676 §1; 1961 c.369 §1; 1969 c.666 §12; repealed by 1971 c.647 §149]

264.180 [1955 c.676 §4; 1969 c.666 §13; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

264.190 [Formerly 264.415; repealed by 1983 c.350 §331a]

POWERS

264.210 General powers of district. 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. [Amended by 1969 c.666 §51; 1971 c.727 §79]

264.220 Disposal of taxes levied when organization declared invalid. When an attempt has been made to organize a district under the provisions of this chapter and subsequently by a decree of a court of competent jurisdiction it has been declared that the organization is invalid, but prior to such decree 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 domestic water 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 domestic water 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 domestic water for the inhabitants of such an area, within a period of two years after the entry of the decree of invalidation, the taxes collected shall be refunded by the custodian of them to the taxpayers who paid them.

264.230 [Amended by 1969 c.666 §52; repealed by 1971 c.727 §203]

264.240 Eminent domain authority; acquisition of property and property rights; obtaining or laying water pipelines. A municipal corporation created under this chapter shall have and exercise within and without its boundaries the same rights and powers of eminent domain and of purchasing, selling, condemning and appropriating real property, water, water rights and riparian rights, which cities or other corporations have, to be exercised in any manner now or hereafter authorized. A district also has the right to purchase or obtain from other cities or like corporations, water or water rights, or an interest in water or water rights, or an interest in a water pipeline owned or operated by any such city or like corporation, or to obtain jointly with any such city or like corporation, any right, or to lay and own individually or jointly with any city or like corporation, any water pipeline for the purposes specified in ORS 264.110. [Amended by 1969 c.666 §53]

264.250 Power to borrow money and issue general obligation bonds; place of payment. (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 electors, 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 such rate of interest, 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 water system. The board may adopt such a resolution without submitting the question of the pledge to the electors of the district. [Amended by 1963 c.9 §6; 1963 c.318 §1; 1969 c.666 §14; 1969 c.694 §4; 1971 c.36 §1; 1977 c.188 §2; 1981 c.94 §14; 1983 c.347 §18; 1991 c.459 §358; 2001 c.215 §2]

Note: Section 33, chapter 215, Oregon Laws 2001, provides:

Sec. 33. (1) The repeal of ORS 208.200, 208.210 and 208.220 by section 1 of this 2001 Act and the amendments to ORS 264.250, 264.300, 264.470, 440.380, 440.395, 440.400, 450.870, 450.890, 450.915, 456.185, 478.420, 478.430, 478.460, 478.560, 523.410, 523.460, 523.660, 545.381, 547.555, 547.580, 547.605, 547.610, 547.615, 547.620, 547.665, 547.675, 547.697, 554.120, 554.160, 554.220 and 554.280 by sections 2 to 32 of this 2001 Act apply to all bonds issued by an authority, district, city or port, whether issued before, on or after the effective date of this 2001 Act [January 1, 2002].

(2) For bonds registered with the county treasurer under ORS 208.200 (1999 Edition) before the effective date of this 2001 Act, the county treasurer shall transfer to the public body issuing the bonds all records and bond proceeds in the possession of the county treasurer no later than 30 days after the effective date of this 2001 Act.

(3) Notwithstanding the provisions of this section, the repeal of ORS 208.200, 208.210 and 208.220 by section 1 of this 2001 Act and the amendments to ORS 264.250, 264.300, 264.470, 440.380, 440.395, 440.400, 450.870, 450.890, 450.915, 456.185, 478.420, 478.430, 478.460, 478.560, 523.410, 523.460, 523.660, 545.381, 547.555, 547.580, 547.605, 547.610, 547.615, 547.620, 547.665, 547.675, 547.697, 554.120, 554.160, 554.220 and 554.280 by sections 2 to 32 of this 2001 Act, the county treasurer shall take appropriate action to ensure that bond payments are made timely during the 30-day period described in subsection (2) of this section. [2001 c.215 §33]

264.260 Issuance of revenue bonds. 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 water system, or to install hydrants for fire protection along its mains, or to perform any of those acts in combination, for the purpose of obtaining water for the domestic use of consumers, or for fire protection, or both, 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 bonds 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. [Amended by 1969 c.666 §15]

264.270 Issuance of 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. [Amended by 1969 c.666 §16]

264.280 Bond sale procedure. All general obligation and revenue bonds, including refunding bonds, issued under ORS 264.250 to 264.270 shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.022 for the sale of bonds of cities of this state.

264.290 [Amended by 1969 c.666 §17; repealed by 1971 c.647 §149]

264.300 Tax assessment, levy and collection. (1) A district may assess, levy and collect taxes in an amount each year not to exceed one-fourth of one percent (.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 264.110, 264.210 to 264.280 and 264.330 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. [Amended by 1963 c.9 §7; 1965 c.348 §6; 1969 c.666 §54; 1969 c.694 §5; 1971 c.36 §2; 1991 c.459 §359; 2001 c.215 §3]

Note: See note under 264.250.

264.306 Regulations concerning use of water and district property; shutoff of water for noncompliance; notice. (1) Any district may adopt and promulgate regulations concerning the use of water and the property of the district. The board of commissioners may refuse to supply any building, place or premises with water where the user fails after five days' written notice to comply with the regulations. The written notice shall be by first-class mail or shall be posted in some conspicuous place on the building, place or premises to which the supply of water may be shut off. When the notice is mailed, it shall be deemed given when it is deposited in the United States Post Office properly addressed with postage prepaid.

(2) Whenever the household supply of water is being jeopardized by nonhousehold use of water, the district can order the nonhousehold use of water to be immediately discontinued. For the purposes of this subsection, nonhousehold use includes irrigation of lawns or fields. [1953 c.660 §3; 1969 c.666 §18; 1991 c.249 §20; 1991 c.250 §1]

264.308 Requiring cash deposits of water users. Any district may require a reasonable cash deposit to insure payment for the use or rent of water to be furnished by the district. [1953 c.660 §1; 1969 c.666 §19]

264.310 Rates for water furnished; contracts to sell surplus water. A district shall charge consumers for the water 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 water used. Any contract entered into by a district with individuals, corporations or associations other than domestic users shall provide for immediate cancellation whenever no surplus supply of water exists over and above any and all demands of domestic users. A district also may contract with other communities, water districts, individuals or corporations, private or municipal, to supply, furnish and sell them surplus water on such terms and conditions and at such rates as the board of commissioners considers advisable. [Amended by 1969 c.666 §55]

264.312 Increasing water rates; hearing; notice. (1) Whenever any increase is proposed in the existing rates charged water consumers by a district pursuant to ORS 264.310, 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 either the water bills or a special mailing sent to consumers by the district during the period of 30 days prior to the date of the hearing. [1961 c.685 §§2, 3; 1969 c.666 §20; 1979 c.328 §5]

264.314 Shutting off water if delinquent in payment of water bill. In case prompt payment of water rent or charge is not made, a district may shut off the water supply to the building, place or premises to which the district supplied the water. [1953 c.660 §2; 1969 c.666 §56]

264.320 Refund of cost of water main extension. If any person is required by a district to pay the cost of extending a water main adjacent to property other than the person's own so that water service for domestic use is provided for such other property without further extension of the water main, the district shall require the owner of the other property, prior to providing water service to that property, to refund to the person required to pay the cost of extending the water main, 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 water main. The amount to be refunded shall be determined by the district and such determination shall be final. [Amended by 1969 c.666 §21]

264.330 Hydrants for fire protection; regulations; rates. Any district may install hydrants for fire protection along its mains at such points as its board of commissioners may determine, and furnish water for such purpose. The

board shall establish, from time to time, regulations governing such installations, and furnishing of water therefrom and any rates and charges thereon. No equipment other than the hydrants and water therefor shall be furnished at the general expense. [Amended by 1969 c.666 §22]

264.335 Authority to exercise powers of sanitary district. In addition to the other powers granted to districts under this chapter, a district may exercise the powers granted to sanitary districts under ORS 450.005 to 450.245 when:

(1) The district obtains all or part of its supply of water from a watershed;

(2) The watershed is located in a sole-source aquifer designated prior to September 29, 1991, by the United States Environmental Protection Agency under the Safe Drinking Water Act (42 U.S.C. 300j et seq.);

(3) The watershed is recognized under rules of the Environmental Quality Commission as a watershed requiring protection from contamination in order to maintain high water quality; and

(4) The district adopts a resolution declaring that the health of the residents of the district and the general public interest requires the district to protect the water quality of the watershed. [1991 c.665 §2]

264.340 Purchase and maintenance of fire equipment; contracting for fire protection; elections to authorize; tax levy to defray expense; application of section. (1) Any district, when authorized by the electors as provided by this subsection, may purchase fire apparatus and equipment and maintain, service and operate the same, and may contract with any city, rural fire protection district or other municipal corporation for fire protection for its inhabitants, or to do either or any combination of the foregoing. Such power shall only be given the board of commissioners by a majority of the votes cast by electors of the district at a special election called for such purpose by the board.

(2)(a) When the power is so granted, the board of commissioners may levy a tax not exceeding three-twentieths of one percent (.0015) of the real market value of all taxable property within the limits of the district, computed in accordance with ORS 308.207 for defraying the expense of providing, maintaining, operating and servicing such fire apparatus and equipment, and of contracting with any city or rural fire protection district for the protection of its inhabitants from fire.

(b) Upon approval of the majority of the votes cast by electors of the district at a special election called for that purpose by the board of commissioners, the district may levy a special tax for defraying such expenses not to exceed four-tenths of one percent (.0040) of the real market value of the taxable property in the district referred to in paragraph (a) of this subsection.

(3) This section shall not apply to any district which on July 16, 1949, was wholly or partially within any legally organized rural fire protection district. [Amended by 1955 c.163 §1; 1963 c.9 §8; 1963 c.318 §2; 1969 c.666 §23; 1983 c.542 §1; 1991 c.459 §360]

264.342 Adoption of fire prevention code. A district which has provided fire protection under ORS 264.340 may, in accordance with ORS 198.510 to 198.600, adopt a fire prevention code. [1953 c.206 §1; 1969 c.666 §24; 1971 c.268 §23; 1971 c.647 §39]

264.344 Scope of fire prevention code. The fire prevention code referred to in ORS 264.342 may provide reasonable regulations relating to:

(1) Prevention of fires.

(2) Storage and use of combustibles and explosives.

(3) Construction, maintenance and regulation of fire escapes.

(4) Means and adequacy of exit in case of fires in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose.

(5) Requiring the issuance of permits by an officer designated by the board of commissioners before burning trash or waste materials.

(6) Providing for the inspection of premises by officers designated by the board of commissioners, and requiring the removal of fire hazards found on premises at such inspections. [1953 c.206 §2]

264.346 Violation of code or failure to remove hazards prohibited. When a fire prevention code has been adopted as provided in ORS 264.342, no person shall violate the provisions of the code or fail to remove hazards found on inspection within the time set by the inspecting officer, after written notice to either the owner or occupant of such

premises, or burn waste materials or trash in an unguarded manner without a permit, if a permit is required by the code. [1953 c.206 §3]

264.348 Copies of code to be filed with State Fire Marshal and posted at fire stations. Copies of the fire prevention code referred to in ORS 264.342 shall be filed with the State Fire Marshal's office and a copy shall be posted at each fire station within the corporation. [1953 c.206 §4]

264.349 Revoking authority to furnish fire protection services; consequences. (1) The authority of a district to furnish fire protection service under ORS 264.340 may be revoked by a majority vote of the electors voting at a special election called for that purpose.

(2) Upon revocation of the authority of a district to furnish fire protection service under ORS 264.340:

(a) The board of commissioners may determine the disposition to be made of any fire apparatus and equipment owned, maintained, serviced or operated by the district.

(b) The fire prevention code adopted pursuant to ORS 264.342 is repealed.

(3) Revocation of the authority of a district to furnish fire protection service under ORS 264.340 shall not abrogate any contract to which the district is a party and which relates to the fire protection service performed under ORS 264.340, and the district shall be obligated and authorized to complete and enforce performance of all such contracts. [1961 c.669 §2; 1969 c.666 §25]

264.350 Street lighting system; contracts for electricity; tax levy and service charges to maintain and purchase electric energy. (1) Any district, when authorized by the electors, may install, maintain and operate a system, or systems, of street, road and highway lights. Lights shall be maintained upon streets, roads, intersections or other places as, in the judgment of the board of commissioners, will furnish the best lighting service to the residents within the district.

(2) The district through its board of commissioners may contract with any supplier of electricity, private or public, to furnish the electric energy for such systems.

(3) The district, when authorized by the electors, may at any time thereafter levy a tax, not to exceed three-twentieths of one percent (.0015) of real market value in any one year for the installation of the system and any extension thereof, and not to exceed one-twentieth of one percent (.0005) of real market value in any one year for maintenance and purchase of electric energy. The tax limits provided by this subsection shall be computed as a percentage of the real market value of all taxable property within the limits of the district, computed in accordance with ORS 308.207.

(4) A district may require any person to pay the cost of installing the highway lighting system adjacent to the property of the person. The district shall have the further right to include the cost of installing the system as a part of an agreement with any person for extending a water main.

(5) If authorized by the electors, the cost of maintenance and purchase of energy may be charged to the water consumers on the basis of one share for each water connection, payable monthly with the bills for water charges. The district may, when authorized by the electors, change from either system of collection to the other. The funds received from the respective levies and charges to water users shall be used only for the purposes collected and no other funds of the district shall be so used.

(6) Elector approval required by this section means the approval of a majority voting at a special election called by the board for the purpose of submitting the matter to the electors. [Amended by 1955 c.163 §2; 1963 c.9 §9; 1969 c.666 §26; 1991 c.459 §361]

264.352 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 water, 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. [1959 c.381 §2; 1969 c.666 §27]

264.360 Cooperative agreements; bonding power. (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 water.

(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. [1963 c.146 §1; 1969 c.666 §28]

Note: 264.360 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 264 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

IMPROVEMENTS AND ASSESSMENTS

264.362 Initiation of proceedings; survey and report of project. 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. [1969 c.686 §2]

264.364 Board action on report. 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. [1969 c.686 §3]

264.366 Resolution of intention; notice of improvement and hearing. 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. [1969 c.686 §4]

264.368 Manner of doing work. The district board 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 governmental agency, or by any combination thereof. [1969 c.686 §5]

264.370 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. [1969 c.686 §§6,7]

264.372 Methods of assessment; alternative financing. 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. [1969 c.686 §8]

264.374 Appeal from 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 264.390. [1969 c.686 §9]

264.376 Notice of assessment. 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. [1969 c.686 §10]

264.378 Assessment lien records; foreclosure proceedings. 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 in so far as the laws of the state permit. Interest shall be charged at such rate as the governing body of the district may provide on all unpaid assessments, together with an amount sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under ORS 264.250, including, but not limited to, legal, printing and consultant’s fees, such amount to be determined by the governing body, 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. [1969 c.686 §11; 1981 c.322 §7]

264.380 Errors in assessment calculations. 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. [1969 c.686 §12]

264.382 Deficit assessment. 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 264.362 to 264.394. Notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with ORS 264.376 and 264.378. [1969 c.686 §13]

264.384 Excess assessment; 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. [1969 c.686 §14]

264.386 Abandonment of proceedings. 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 264.362 to 264.394, 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. [1969 c.686 §15]

264.388 Guides in testing validity of proceedings; proceedings to correct. 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 264.362, 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 264.362 to 264.394, 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. [1969 c.686 §16]

264.390 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. [1969 c.686 §17]

264.392 [1969 c.686 §18; repealed by 1995 c.333 §37]

264.394 Enforcement 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. [1969 c.686 §19]

BOARD OF COMMISSIONERS

264.410 Board; qualification; terms. (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 of the district. However, if there are fewer than 100 electors of the district, then any individual who owns and maintains real property within the district, pays taxes levied thereon by the district and is an elector registered anywhere in this state may serve as a commissioner. Except as provided by subsection (2) of this section, each commissioner shall be elected for a term of four years.

(2) Within 10 days 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. The terms of two commissioners shall expire June 30 next following the first regular district election and the terms of 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. [Amended by 1955 c.213 §3; 1967 c.436 §2; 1969 c.666 §29; subsection (3) renumbered 264.415; 1971 c.727 §80; 1973 c.796 §19; 1975 c.647 §22; 1981 c.352 §1; 1983 c.6 §1; 1983 c.83 §39; 1983 c.350 §102]

264.415 [Formerly subsection (3) of 264.410; 1971 c.647 §40; 1973 c.796 §20; 1975 c.647 §23; renumbered 264.190]

264.417 Position numbers for commissioners; certification of position number. (1) Each office of commissioner shall be designated by number as Position No. 1, Position No. 2 and so forth.

(2) The secretary of a district shall assign a position number to each office on the board. The number so assigned shall be certified by the secretary to the commissioner in office holding that position. A copy of the certification shall be filed with the district elections officer. [1977 c.301 §2; 1983 c.350 §103]

264.420 Calling of special elections. The board of commissioners at any regular meeting may call a special election of the electors of the district. [Amended by 1969 c.666 §31; 1971 c.647 §41]

264.430 Proceedings of board; election of officers; employment of personnel. (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. [Amended by 1965 c.307 §1; 1969 c.344 §4; 1969 c.345 §4; 1969 c.666 §§32, 66; 1971 c.403 §3]

264.440 [Repealed by 1969 c.666 §70]

264.450 [Amended by 1969 c.666 §33; repealed by 1969 c.666 §68 and by 1969 c.669 §21]

264.455 [1961 c.564 §2; amended by 1969 c.666 §57; repealed by 1969 c.325 §4 and by 1969 c.666 §67]

264.460 [Amended by 1969 c.666 §58; 1975 c.647 §24; repealed by 1983 c.350 §331a]

264.470 Deposit and withdrawal of moneys; annual reports; records. (1) The money of a district shall be deposited in one or more depositories, as defined in ORS 295.005, 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. [Amended by 1969 c.666 §34; 1969 c.694 §6; 1971 c.36 §3; 2001 c.215 §4]

Note: See note under 264.250.

264.480 Board of commissioners after merger or consolidation; duties; terms; filing boundary change with county assessor and Department of Revenue. (1) Notwithstanding ORS 198.910 and 198.915, when, at an election on consolidation or merger, a majority of the votes cast in each affected district is in favor of merger or consolidation or when merger or consolidation of districts is approved by a final order of a local government boundary commission, if all but one of the affected districts together contain fewer than 20 percent of the electors or owners of land within the successor or surviving district, the district board of the district containing the largest number of electors or owners of land shall serve as the district board of the surviving or successor district. The terms of office of members of the district board of the surviving or successor district chosen under this subsection shall not be affected by the merger or consolidation.

(2) The board selected under subsection (1) of this section or ORS 198.912 shall immediately meet as required by ORS 198.910, organize as provided by this chapter and, by resolution, declare the districts merged or consolidated. In areas outside the jurisdiction of a local government boundary commission, the merger or consolidation is complete from the date of adoption of the resolution. Within the jurisdiction of a local government boundary commission, the merger or consolidation takes effect as provided in ORS 199.480 (1)(c).

(3) 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. [1983 c.195 §2; 1997 c.590 §3; 2001 c.138 §8]

CONTRACTS

264.505 Agreement to supply additional water prior to approval of annexation petition. Before approval of the board of commissioners is given to a petition for annexation, the board shall secure from the independent water supply source of the district, if any, an agreement to supply such additional water as may be needed. [1953 c.682 §§2,3,4,5,6; 1967 c.436 §1; 1969 c.79 §1; 1969 c.666 §35; 1971 c.727 §81]

264.510 [Repealed by 1953 c.682 §7]

264.511 [1969 c.79 §3; 1969 c.666 §69; repealed by 1971 c.727 §203]

264.520 [Amended by 1955 c.163 §3; 1969 c.666 §36; repealed by 1971 c.727 §203]

264.530 [Amended by 1969 c.666 §37; repealed by 1971 c.727 §203]

264.540 Fire hydrants in city joined or annexed to district; reversion of water system in city to district. (1) If a city has been annexed to a district under ORS 198.866 and 198.867 or has been joined to a district under ORS 198.910, the city may designate the location and type of fire hydrants to be installed within the territory of the city. The board of commissioners shall establish the rates for the use of water therefrom as provided in ORS 264.330. The city and the district may by contract determine the entire matter of installation of hydrants and use of water therefrom and payment therefor.

(2) The ownership of the water supply system within the city boundaries shall revert to and be vested in the district. [Amended by 1969 c.666 §59; 1971 c.727 §82; 1983 c.142 §13]

264.550 Contracts between district and city joined or annexed to district. If a city has been annexed to a district under ORS 198.866 and 198.867 or has been 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 water user tax or charge imposed by the city upon water 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 water users, including but not limited to shutting off the water supply for nonpayment. [1955 c.692 §1; 1969 c.666 §38; 1971 c.727 §83; 1983 c.142 §14]

264.575 [1961 c.476 §§2, 3; 1965 c.135 §1; 1969 c.666 §39; repealed by 1971 c.727 §203]

264.580 [1961 c.476 §4; 1969 c.666 §60; repealed by 1971 c.727 §203]

264.585 [1961 c.476 §6; 1969 c.666 §61; repealed by 1971 c.727 §203]

264.590 [1961 c.476 §5; 1969 c.666 §62; repealed by 1971 c.727 §203]

264.610 [Amended by 1969 c.666 §40; 1971 c.601 §1; repealed by 1971 c.727 §203]

264.620 [Amended by 1969 c.666 §41; repealed by 1971 c.727 §203]

264.630 [Amended by 1969 c.666 §42; 1971 c.601 §3; repealed by 1971 c.727 §203]

264.710 [1953 c.683 §1; repealed by 1969 c.666 §70]

264.715 [1953 c.683 §2; 1969 c.666 §43; repealed by 1971 c.727 §203]

264.720 [1953 c.683 §3; 1969 c.666 §63; repealed by 1971 c.727 §203]

264.725 [1953 c.683 §§4, 5; 1969 c.666 §44; repealed by 1971 c.727 §203]

264.730 [1953 c.683 §6; 1969 c.666 §45; repealed by 1971 c.727 §203]

264.735 [1953 c.683 §7; 1969 c.666 §46; repealed by 1971 c.727 §203]

264.740 [1953 c.683 §8; 1969 c.666 §64; repealed by 1971 c.647 §149]

264.745 [1953 c.683 §9; 1969 c.666 §47; repealed by 1971 c.727 §203]

264.750 [1953 c.683 §10; 1969 c.666 §65; repealed by 1971 c.727 §203]

EMPLOYEES' RETIREMENT SYSTEM

264.810 Employees' retirement system authorized. (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. [1965 c.348 §2; 1969 c.666 §48]

264.820 District to budget for retirement system. 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. [1965 c.348 §3]

264.830 Employee contributions. 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. [1965 c.348 §4]

264.840 Limitation on membership. 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. [1965 c.348 §5]

MISCELLANEOUS

264.875 Assumption of debts and obligations of district upon dissolution. (1) An irrigation district within which a water district is situated, or a city supplying water to a water district, may enter into a written agreement with a water district contemplating dissolution undertaking to assume, in the event of such dissolution, all of the outstanding debts and obligations of the water district and to continue to furnish water 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, with reference to domestic water supply, as are conferred and imposed upon cities under ORS 223.005 to 223.105, 223.205 to 223.930 and ORS chapter 225. Any person entitled to water service within the area of the dissolved district has the same remedies at law or in equity to enforce the rights of the person to water supply service as are available to enforce the right to water service within the city.

(2) The successor city or district shall furnish domestic water supply and service 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 irrigation 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 or an irrigation district 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 or by the irrigation district by reason of, or during the period of, its commitment under the agreement shall bind the city or irrigation district 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 as a part of and at the time the findings and plan of dissolution are filed under ORS 198.925. [1971 c.601 §5; 1983 c.740 §67]

PENALTIES

264.990 Penalties. Violation of any provision of ORS 264.346 is a Class D violation. Each day’s refusal to remove fire hazards after notice by the inspecting officer to the owner or occupant of the premises whereon such hazard exists shall constitute a separate offense. [1953 c.206 §5; 1999 c.1051 §168]