Chapter 545

2003 EDITION

Irrigation Districts

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GENERAL PROVISIONS

545.001 Short title. This chapter may be referred to as the Irrigation District Law. [1995 c.42 §1]

545.002 Definitions. As used in this chapter:

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

(2) "District" means an irrigation district organized or operating under this chapter.

(3) "Owner of land" or "elector" includes every person 18 years of age or older, whether a resident of the district or state or not, who is an owner or a vendee under a contract of purchase of land situated within the district and subject to the charges or assessments of the district. [Amended by 1993 c.771 §3; 1995 c.42 §2]

545.004 [Amended by 1967 c.503 §1; 1993 c.771 §4; 1995 c.42 §4; renumbered 545.025 in 1995]

545.006 [Amended by 1993 c.771 §5; 1995 c.42 §5; renumbered 545.029 in 1995]

545.007 Voting rights. (1) In any matter requiring or allowing a vote of the owners of land or the electors of a district:

(a) If ownership is in estates by the entirety, tenants in common, or in other cases of multiple ownership, only one vote shall be allowed on behalf of all the owners under each multiple ownership. The vote may be cast by any one of the multiple owners. When two or more persons attempt to cast a vote under this paragraph, only the vote of the person who first casts a vote shall be counted.

(b) Any corporation may vote as a single owner of land through any officer or agent when the officer or agent is authorized to vote by the corporation and the written authorization is filed with the secretary of the board of directors of the district.

(c) Any general partnership, limited partnership or limited liability company may vote as a single owner of land through any general partner, member or agent when the general partner, member or agent is authorized to vote by the entity and written evidence of the authority of the general partner, member or agent is filed with the secretary of the board of directors of the district.

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

(e) An owner of land or elector may vote according to the total amount of acreage within the district owned by the owner or elector that is subject to the charges or assessments of the district on the basis of:

(A) One vote for up to 40 acres;

(B) Two votes for 40 acres or more but not more than 160 acres; and

(C) Three votes for more than 160 acres.

(f) When a district is divided into divisions under ORS 545.033 or 545.207 and voting is by the qualified electors within a division for a director from that division, an elector who is permitted under ORS 545.207 to vote in that division may cast the number of votes under subsection (1)(e) of this section that represents the total amount of eligible acreage owned by the elector within the whole district.

(2) The weighted voting provisions of subsection (1)(e) of this section do not apply in an election for the formation of a district and for its initial board of directors under ORS 545.041 and 545.043 (1). In such an election, each owner of land is entitled to cast one vote. [1995 c.42 §3; 1995 c.754 §3; 1999 c.452 §4]

545.008 [Amended by 1995 c.42 §6; renumbered 545.033 in 1995]

545.010 [Amended by 1967 c.503 §2; 1991 c.249 §54; 1993 c.771 §6; 1995 c.42 §7; renumbered 545.037 in 1995]

545.012 [Amended by 1993 c.771 §7; 1995 c.42 §8; 1995 c.754 §4; renumbered 545.041 in 1995]

545.014 [Amended by 1969 c.669 §13; 1989 c.182 §6; 1995 c.42 §9; renumbered 545.043 in 1995]

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

545.018 [Amended by 1959 c.348 §1; 1993 c.771 §8; 1995 c.42 §44; renumbered 545.199 in 1995]

545.020 [Amended by 1995 c.42 §45; renumbered 545.203 in 1995]

545.022 [Amended by 1953 c.233 §2; 1993 c.771 §9; 1995 c.42 §46; renumbered 545.207 in 1995]

545.024 [Amended by 1995 c.42 §47; renumbered 545.211 in 1995]

FORMATION OF DISTRICTS

545.025 Purposes of organizing irrigation district; petition of landowners; contents; hearing; notice of hearing. (1) When owners of land that is irrigated or susceptible to irrigation desire to provide for the construction of works for irrigation of their land, to provide for the reconstruction, betterment, extension, purchase, operation or maintenance of works already constructed, or to provide for the assumption of indebtedness to the United States incurred under the federal reclamation laws on account of their lands, they may propose the organization of an irrigation district under the Irrigation District Law by signing a petition and filing it with the county court of the principal county, as defined in ORS 198.705. The petition must be signed by a majority of the owners of land or 50 owners of land within

the exterior boundaries of the proposed district.

(2) The petition shall set forth:

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

(b) The name of the proposed district;

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

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

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

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

(4) Each person circulating the petition shall certify on each signature sheet that every person who signed the petition did so in the presence of the person circulating the petition.

(5) A description and map of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the district, together with the names and mailing addresses of all of the owners of the lands, shall be included in the petition or attached to the petition as an exhibit. Reference to the assessor's map and tax lot number is sufficient for the description of lands required under this subsection.

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

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

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

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

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

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

(8) If an elector is not a resident of the district or this state, a legal representative of the owner of land, including an individual acting pursuant to a power of attorney, may sign a formation petition for and on behalf of the owner. [Formerly 545.004; 1999 c.318 §32; 1999 c.452 §5]

545.026 [Amended by 1993 c.771 §10; 1995 c.42 §31; 1995 c.754 §5; renumbered 545.137 in 1995]

545.028 [Amended by 1967 c.609 §5; 1979 c.190 §427; 1995 c.42 §32; renumbered 545.139 in 1995]

545.029 Hearing of petition by county court; authority as to boundaries of district; lands included; order; formation of district without election. (1) When the petition for formation of an irrigation district is filed, the county court shall hold the hearing required under ORS 545.025 (6). The county court may adjourn the hearing from time to time, but the hearing shall not be extended over a period exceeding four weeks. At the end of the hearing, the county court may make such changes in the proposed boundaries as the court may find proper, and shall establish and define the boundaries, subject to the following:

(a) An irrigation district may not include land that is located within a city or platted subdivision and that is chiefly available for residence purposes. The restriction imposed by this paragraph is expressly limited to residence property, and all lands, whether wholly or partially within any city or platted subdivision, used or suitable for agricultural or horticultural purposes and not platted in tracts of less than one acre, may be included in a district. However, if an irrigation district is formed as a successor district to another water supply entity and if that entity provides water for irrigation to land within any city or platted subdivision, the restriction imposed by this paragraph does not apply to such land that is served by the water supply entity at the time of formation of the irrigation district.

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

(c) In the discretion of the county court, an owner of land that is susceptible to irrigation from the same system of works may, upon written application of the owner, have the land included in the district.

(2) At the end of the hearing, the county court shall make and enter an order determining whether the requisite number of owners of the land within the proposed district have petitioned for its formation, and whether the notice required under ORS 545.025 (6) has been duly published.

(3) If the county court finds that the petition is signed by all of the owners of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the proposed district and if the only modifications of district boundaries are at the request of owners of land seeking inclusion under subsection (1)(c) of this section, the county court shall enter an order creating the district and the election otherwise required by ORS 545.037 shall not be held. If the petition for formation also names persons desired as members of the first board of directors of the district and those persons have agreed in writing to serve as directors, the order shall declare those persons to be the directors of the district. [Formerly 545.006]

545.030 [Amended by 1993 c.771 §11; 1995 c.42 §33; 1995 c.607 §85; 1995 c.754 §6; renumbered 545.141 in 1995]

545.032 [Amended by 1995 c.42 §34; 1995 c.754 §7; renumbered 545.145 in 1995]

545.033 Naming and division of districts. (1) The order of the county court shall designate the name of the district. The name of the district may be changed by the county court at any time thereafter upon petition of the board of directors of the district accompanied by either the consent, in writing, of a majority of the owners of lands within the district or by the certificate of the secretary of the district certifying that, at a regular or special election called and held in the district for any purpose provided by law, the proposed change of name was approved by a majority of the electors voting upon the question of change of name. The secretary of the district shall cause a certified copy of the order to be recorded in the office of the county clerk of the county or counties in which the district is located.

(2) If the petition provides for a five-member board of directors or provides for a three-member board of directors for a subdivided district, the county court shall divide the district into the required number of divisions. Each division shall be as nearly equal as practicable in the number of acres that will be subject to the charges or assessments of the district. The county court shall define and particularly describe division boundaries and make use, insofar as may be desirable, of any natural boundaries that may exist in the district. The divisions shall be numbered. [Formerly 545.008; 1999 c.452 §6]

545.034 [Amended by 1995 c.42 §35; renumbered 545.149 in 1995]

545.036 [Amended by 1995 c.42 §36; renumbered 545.153 in 1995]

545.037 Notice of election for determining organization of district; contents; publication; mailing. (1) Except when an election is not required as provided in ORS 545.029 (3), the county court shall give notice of an election to be held in the proposed district for the purpose of determining whether or not the district shall be organized under the Irrigation District Law and for the purpose of electing an initial board of directors. The notice shall describe the boundaries established for the district. However, if the county court, in the order defining the boundaries, orders that they need not be described in the notice, the notice shall refer to and incorporate by reference the boundaries established by the order of the county court under ORS 545.029 and on file in the office of the county clerk of the county in which the district is located. The notice shall designate the name of the proposed district, state the date of the election, the board positions to be voted upon and the latest date on which candidates for election as board members may file petitions for nomination. The notice shall be published once each week, commencing not later than the 50th day before the election, for at least four consecutive weeks in a newspaper of general circulation in the county. If any portion of the district lies within another county, then the notice shall be published in a newspaper of general circulation in each county in the same time and manner. The notice shall require the electors to cast ballots which contain the words "Irrigation District — Yes," and "Irrigation District — No," or equivalent words. During the period in which the notice is published, the county clerk shall send a copy of the notice by registered mail or by certified mail with return receipt to each owner of land identified in the petition for formation under ORS 545.025 (5) who has not joined in the petition for organization of the district. The provisions of this subsection relating to mailing notices are directory and not jurisdictional.

(2) In lieu of including a description of the lands within a district or the boundaries

of a district in the notice of election, the county court or board of directors calling an election in an irrigation district may direct that the notice refer to the order calling the election and incorporate by reference the description of the district boundaries contained in the order. [Formerly 545.010; 1999 c.452 §7]

545.038 [Amended by 1979 c.562 §18; 1995 c.42 §37; renumbered 545.156 in 1995]

545.040 [Repealed by 1995 c.42 §184]

545.041 Conduct of election; contents of nominating petition; verification of electors by county assessor; order declaring result; inclusion of portion of district in another district; commencement of duties by directors. (1) The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state, except that the provisions of the election laws as to the form of ballot and as to the nomination of candidates shall not apply. No particular form of ballot shall be required. An absent elector may obtain an absentee ballot and vote, as nearly as practicable, in the manner provided for absentee electors in ORS chapter 253.

(2)(a) Nominations for candidates for the board of directors may be made by petition, signed by at least 10 electors in the proposed district or division who are qualified to vote for the directors nominated by them. Nominations may also be made at an assembly of not less than 25 electors.

(b) Not more than one of the electors of a multiple ownership as described in ORS 545.007 (1)(a) may sign a nominating petition or vote at an assembly. Nominations by petition or by assembly shall be filed with the county assessor before they are filed with the county clerk under this subsection. If a nomination is made at an assembly, the nomination shall be filed under this paragraph with a list of the names and addresses of the electors who voted at the assembly. The county assessor shall verify that not more than one of the electors of a multiple ownership as described in ORS 545.007 (1)(a) has signed a nominating petition or voted at an assembly. The county assessor shall provide written confirmation of the assessor's verification to the person filing the nomination.

(c) Nominations by petition or by assembly shall be filed with the county clerk at least 35 days next preceding the date of election. The nomination shall be accompanied by a copy of the written confirmation of verification provided by the county assessor under this subsection.

(d) The county clerk shall have the names of all persons nominated placed on the ballots as candidates for the offices for which they have been nominated. The ballots shall have a blank line under the printed names, on which may be written the name of any candidate voted for.

(3) A nominating petition shall contain:

(a) The name by which a candidate is commonly known. The candidate may use a nickname in parentheses in connection with the candidate's full name;

(b) The address information of the candidate;

(c) The office for which the candidate seeks nomination;

(d) The term of office for which the candidate seeks nomination;

(e) A statement that the candidate is qualified for the office;

(f) A statement that the candidate is willing to accept the nomination and, if elected, the office;

(g) The signature of the candidate;

(h) The printed name and address of each elector who signed the petition; and

(i) A statement by the circulator of the petition that the circulator is personally acquainted with the electors who signed the petition and affirms that the signatures are genuine.

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

(a) Is a legal representative of the owner;

(b) Is entitled to be shown as the owner of land on the next assessment roll;

(c) Is a purchaser of land under a written agreement of sale; or

(d) Is authorized to sign for and on behalf of any public agency owning land.

(5) The county court shall meet on the first Monday that is at least 10 days after the election, canvass the votes cast, and enter an order declaring the result of the election. If upon the canvass it appears that at least three-fifths of the votes cast are "Irrigation District — Yes," the court shall, by an order entered on its minutes, declare the territory organized as an irrigation district under the name designated by the county court under ORS 545.033 (1), and shall declare the persons receiving, respectively, the highest number of votes for the several available director positions to be elected to those positions. The court shall cause a copy of the order, duly certified, to be immediately filed for record in the office of the county clerk

of each county in which any portion of the district is situated.

(6) After the date of organization of an irrigation district, the county court of any county including any portion of the district shall not allow another district to be formed that includes any lands in the existing district, without first securing consent for the formation from the existing district.

(7) From and after the date of the filing of the order under subsection (1) of this section, the organization of the district is complete, and the directors may enter upon the duties of their offices upon qualifying as provided by law. They shall hold office until their successors are elected and qualified. [Formerly 545.012; 2001 c.257 §1; 2003 c.94 §1]

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

(2) Within 10 days after receiving the certificate of election provided for in ORS 545.153, the director shall take the official oath and file it in the office of the board of directors. [Formerly 545.014]

545.045 [1993 c.771 §2; 1995 c.42 §38; 1995 c.607 §86; renumbered 545.163 in 1995]

CHANGE OF DISTRICT BOUNDARIES

(Generally)

545.051 Change of boundaries authorized; effect on existing rights and liabilities. The boundaries of any irrigation district organized under the Irrigation District Law may be changed in the manner prescribed in ORS 545.051 to 545.126. However, a change in the boundaries of a district shall not impair or affect its organization, its right in or to property or any of its other rights or privileges of whatever kind or nature. The change in the boundaries of a district shall not affect, impair or discharge any contract, obligation, lien or charge for or upon which the district was liable or chargeable had such change of its boundaries not been made. [Formerly 545.582]

(Addition of Land)

545.057 Petition for inclusion of lands within district. The holders of title, or evidence of title, representing a majority of the acreage of any body of land adjacent to the boundaries of any irrigation district may file with the board of directors of the district a written petition requesting that the body of land be included in the district. For purposes of this section, the body of land may include or consist of one or more parcels of less than one acre, without regard to whether or not the parcels are city lots or tracts of a platted subdivision or are chiefly available for residence purposes. When the body of land is located within the boundary of a city, the petition shall be approved by the governing body of the city before presentation to the board of directors. The petition shall describe the tracts or body of land owned by the petitioners. Reference to the assessor's map and tax lot number is sufficient for the description of lands required under this section. The petition shall give assent of the petitioners to the inclusion into the district of the lands described in the petition. The petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. [Formerly 545.584; 1999 c.452 §8; 2003 c.802 §132]

545.059 Notice of petition; publication; deposit for costs. The secretary of the board of directors shall cause notice of the filing of the petition to be given and published once each week, for three successive weeks, in a newspaper published in the county where the office of the board is situated. The notice shall state the filing of the petition, the names of the petitioners, a description of the lands mentioned in the petition, and the request of the petitioners. The notice shall also contain a statement indicating that all interested persons may appear at the office of the board at the time named in the notice and show cause why the petition should not be granted. The time specified in the notice shall be the time of the next regular meeting of the board after the expiration of the time for publication of the notice. However, before the secretary of the board is required to give notice, the petitioners must advance to the secretary sufficient money to pay the estimated cost of all proceedings under the petition. [Formerly 545.586]

545.061 Hearing on petition. The board of directors, at the time and place mentioned in the notice, or at some other time to which the hearing of the petition may adjourn, shall hear the petition and consider all objections to the petition presented in writing by any person, showing cause why the petition should not be granted. The failure of any person to object shall be taken as assent

by the person to the inclusion of the lands in the district as requested in the petition. [Formerly 545.588]

545.062 [Amended by 1969 c.345 §13; 1987 c.835 §1; 1995 c.42 §42; renumbered 545.181 in 1995]

545.064 [Amended by 1965 c.541 §2; 1995 c.42 §48; 1995 c.78 §1; renumbered 545.221 in 1995]

545.065 [1959 c.276 §2; 1993 c.392 §1; 1995 c.42 §63; renumbered 545.295 in 1995]

545.066 [Amended by 1957 c.128 §1; 1965 c.614 §1; 1971 c.403 §9; 1993 c.771 §12; renumbered 545.183 in 1995]

545.067 Liability of petitioners for obligations of district. Except as provided in ORS 545.075, the board of directors to whom the petition is presented may require as a condition precedent to the granting of the petition that the petitioners severally pay, contract to pay or become liable to the district for assessments for the payment of their pro rata share of all bonds and the interest thereon previously issued by the district. The amount of the assessments required under this section, as nearly as the amount can be estimated by the board, shall be the amount that the petitioners or their grantors would have been required to pay to the district had such lands been included in the district at the time it was originally formed or when the bonds were issued. [Formerly 545.590]

545.068 [Amended by 1995 c.42 §43; renumbered 545.185 in 1995]

545.070 [Amended by 1965 c.332 §6; 1977 c.774 §26; 1979 c.286 §15; 1989 c.182 §7; 1995 c.42 §49; renumbered 545.225 in 1995]

545.071 Acceptance or rejection of petition; inclusion of land when owner objects. If the board of directors considers that it is not for the best interest of the district to include in the district the lands mentioned in the petition, the board, by order, shall reject the petition. However, if the board considers that it is for the best interest of the district that the lands or any part of the lands be included, the board may order that the district be changed so as to include the lands or any part of the lands mentioned in the petition. When making the change, the board shall not subject to the charges or assessments of the district the lands of any owner objecting to the inclusion of the lands. However, the board may include such lands within the boundaries of the district solely for administrative convenience. The order shall describe the boundaries of the land included with such exceptions as may be made. [Formerly 545.592; 1999 c.452 §9]

545.072 [Repealed by 1989 c.182 §49]

545.074 [Repealed by 1975 c.771 §33]

545.075 Requirements that may be imposed upon petitioners in western Oregon district; charges or assessments. (1) Notwithstanding ORS 545.067, in any irrigation district lying entirely west of the summit of the Cascade Mountains, the board of directors may require as a condition precedent to the granting of the petition that the petitioners severally pay, contract to pay, become liable to the district for or consent that the lands petitioned to be included be charged or assessed by the district for such sums as the board of directors determines. However, these sums shall not exceed the amount the petitioners or their predecessors in interest would have been required to pay to the district for charges and assessments for the payment of:

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

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

(2) The board of directors may provide for the payment of any charge or assessment under this section in annual installments. The order of inclusion shall set forth the description of the lands included, the amount of the charge or assessment on the lands and the manner of payment. After the order is recorded under ORS 545.079, the order is an assessment of the district upon the lands of petitioners for any bonded indebtedness or federal or state contract obligation in accordance with the provisions of the order of inclusion, and the lands are included within the boundaries of the district.

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

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

(5) For the purposes of this section the summit of the Cascade Mountains is considered to be a line beginning at the intersection of the western boundary of Hood River County with the northern boundary of

the State of Oregon, thence southerly along the western boundaries of the counties of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [Formerly 545.593]

545.076 [Amended by 1995 c.42 §72; renumbered 545.343 in 1995]

545.078 [Amended by 1995 c.42 §73; renumbered 545.345 in 1995]

545.079 Recording of order including lands in district; effect of order; appeal. (1) Upon the allowance of a petition for inclusion of lands and when an appeal has not been filed within 30 days after entry of the order, a certified copy of the order of the board of directors including the lands in the district shall be filed for record in the office of the county clerk of each county in which lands of the district are situated. The district as changed and all lands in the district shall be liable for all existing obligations and indebtedness of the district.

(2) An appeal may be taken from the order of the board as provided in ORS 548.105 to 548.115. If an appeal is not taken, the order of inclusion shall be deemed lawful and conclusive against all persons. The order shall not thereafter be questioned in any manner in any proceedings. [Formerly 545.594; 1999 c.452 §10]

545.080 [Amended by 1995 c.42 §74; renumbered 545.347 in 1995]

545.081 [1993 c.771 §14; 1995 c.42 §50; renumbered 545.237 in 1995]

545.082 [Amended by 1995 c.42 §51; renumbered 545.239 in 1995]

545.084 [Amended by 1995 c.42 §52; renumbered 545.241 in 1995]

545.085 Record of petition; admissibility in evidence. Upon the filing of the copies of the order under ORS 545.079, the secretary shall record the petition for inclusion in the minutes of the board. The minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition. [Formerly 545.596]

545.086 [Amended by 1995 c.42 §53; renumbered 545.245 in 1995]

545.088 [Amended by 1995 c.42 §54; renumbered 545.249 in 1995]

545.089 Redivision of district; election of directors. (1) When land is included within a district by proceedings under ORS 545.057 to 545.085, if the district is subdivided for the election of directors and as a result of the inclusion of the land the deviation in acreage among the divisions is greater than 10 percent, the board of directors, not earlier than 30 days after the final order making the inclusion, shall make an order redividing the district. Redivision shall be done in the same manner as provided for the initial division of the district in ORS 545.033 (2).

(2) If redivision of the district under subsection (1) of this section results in the creation of a division without a qualified representative on the board of directors, the position of director from that division shall be filled at the next general election of the district. When the newly elected director assumes office, if there are two or more directors from another division, the term of office of the director having the least time left to serve shall expire. The initial term of office of the newly elected director shall be the same as the remaining term of the director whose term expires as provided under this subsection. [Formerly 545.598; 1999 c.452 §11]

545.090 [Amended by 1995 c.42 §55; renumbered 545.253 in 1995]

545.091 Inclusion of lands not subject to charges of district. The boundaries of a district may for administrative convenience encompass lands that are not subject to the charges and assessments of the district, without regard to whether the lands are susceptible to irrigation. An owner whose land is within the boundaries of a district but is not subject to the charges and assessments of the district does not have the rights or duties of an elector or owner of land under this chapter. [1999 c.452 §2]

Note: 545.091 was added to and made a part of ORS chapter 545 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

545.092 [Repealed by 1969 c.344 §8]

(Subdistricts)

545.093 Creation of subdistricts; purpose; change in subdistrict boundaries. (1) Subdistricts within an irrigation district may be created as provided in this section.

(2) When the owners of more than 50 percent of the acreage in any contiguous tracts of land situated within a district and subject to the charges or assessments of the district desire to have the district undertake the construction of works for irrigation of their land or provide for the reconstruction, betterment, extension, purchase, operation or maintenance of works already constructed that will benefit their lands, they may petition the board for the creation of a subdistrict. The petition shall state the boundaries proposed for the subdistrict, the name and address of each person signing the petition, a brief general statement as to the works the petitioners desire to have constructed or provided and a prayer asking that the lands described be organized as a subdistrict. The description of the boundaries of the proposed subdistrict shall be certified as a complete and sufficient legal description by a qualified engineer or land surveyor and the certificate shall be filed with the board at the time the

petition is filed. The petition shall be considered by the board at its next meeting. If the board approves the petition, the board shall adopt an order creating the subdistrict. The order shall contain a description of the boundaries of the subdistrict. A subdistrict may include all or any part of the lands within a district. A copy of the order shall be recorded in each county in which lands within the subdistrict are located.

(3) A subdistrict may also be created under this section by resolution of the board.

(4) After the creation of a subdistrict under this section, the boundaries of the subdistrict may be changed by the inclusion of lands outside of the subdistrict. A proceeding under this subsection may be initiated by petition of the owners of more than 50 percent of the lands sought to be included in the subdistrict. The lands to be included in the subdistrict must be contiguous to the subdistrict and within the boundaries of the district. The petition shall state the boundaries of the lands to be included in the subdistrict, the reason for adding the lands to the subdistrict, the name and address of each person signing the petition and a prayer asking that the lands described by the petition be included in the subdistrict. The petition shall be filed with the board. The description of the boundaries of the subdistrict after the proposed addition shall be certified as a complete and sufficient legal description by a qualified engineer or land surveyor and the certificate shall be filed with the board at the time the petition is filed. The board of directors shall enter an order fixing a time and place for a hearing on the petition and shall either publish notice of the hearing or mail a notice of the hearing to all landowners within the boundaries of the lands proposed for inclusion in the subdistrict. At the hearing or at any time and place to which the hearing may be adjourned, the board shall determine what lands proposed to be included within the subdistrict will be benefited by inclusion in the subdistrict. The board shall adopt an order for inclusion of the benefited lands in the subdistrict and the new boundaries of the subdistrict shall be described in the order.

(5) A subdistrict created under this section may be designated "Subdistrict No. _____ of the _____ Irrigation District."

(6) A subdistrict created under this section may be an electoral district for purposes of district elections under ORS 545.167.

(7) The district board of the main district is the governing board of each subdistrict of the district.

(8) Except as otherwise provided in ORS 545.093 to 545.095, after the creation of a subdistrict, proceedings relating to a subdistrict shall conform to provisions of this chapter applicable to districts. In all other matters affecting only a subdistrict, provisions of this chapter applicable to a district apply to the subdistrict as though the subdistrict were a district. [1999 c.356 §2]

Note: 545.093 to 545.095 were added to and made a part of ORS chapter 545 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

545.094 Engineering plan for improvements within subdistricts; notice; hearing; remonstrance. After the creation of a subdistrict, the board may develop an engineering plan for the improvements requested in the petition for the creation of the subdistrict or proposed by the board. The board may make an engineering plan for the subdistrict or may adopt as an engineering plan any plan made by any department or agency of the federal government or the State of Oregon or a project work plan proposed for any soil and water conservation district in which lands within the subdistrict are located. Upon completion of the plan, the board shall give notice of the plan to the owners of the tracts of land within the subdistrict and shall permit the inspection of the plan at the office of the subdistrict by the landowners. The notice may be given by mail or by publication, as may be determined by the board. The notice shall fix a time and place for a hearing at which objections to the plan may be heard by the board. The hearing shall be held not less than 20 nor more than 30 days after the date of mailing or the date of the last publication of the notice. At the hearing, the board may make changes in the engineering plan that the board considers necessary after reviewing objections or suggestions made by any person at the hearing. After the hearing, the board may approve the plan, as corrected or changed, by adopting an order of approval. However, if the owners of more than 50 percent of the lands within the subdistrict subject to the charges or assessments of the district file written objections to the order approving the engineering plan with the secretary of the district within 15 days after the date of the order, no further action shall be taken under the order and the plan shall be considered to have been rejected by the landowners. When an engineering plan for a subdistrict is rejected by the landowners, the board may obtain a new engineering plan and present it to the landowners in the manner provided in this section. [1999 c.356 §3]

Note: See note under 545.093.

545.095 Charges or assessments for improvements within subdistrict. The cost of constructing, purchasing, operating, maintaining and improving the works described in an engineering plan for a subdistrict shall be

charged to the owners of the lands, or assessed against the lands, benefited by the works in proportion to the benefits to be received by each tract of land. The charges or assessments shall be in addition to the regular charges or assessments of the district under ORS 545.471. Only the lands or owners within a subdistrict shall be liable for, charged with or in any manner assessed for the payment of judgments, claims, damages, costs, expenses, debts or other liabilities of or against a district that arise out of or are incurred in the constructing, purchasing, operating, maintaining or improving of the works of the subdistrict. [1999 c.356 §4]

Note: See note under 545.093.

(Exclusion of Land)

545.097 Exclusion of tracts; effect on status of district, rights and liabilities. The boundaries of any irrigation district organized under the Irrigation District Law may be changed, and tracts of land that were included within the boundaries of the district at or after its organization may be excluded from the district in the manner prescribed in ORS 545.097 to 545.126. However, a change of the boundaries of a district resulting from exclusion of lands from the district shall not impair or affect its organization, its right in or to property or any of its rights or privileges of whatever kind or nature. Exclusion of lands from the district shall not affect, impair, or discharge any contract, obligation, lien, or charge for or upon which the district would be liable or chargeable if the change of its boundaries had not been made, or if land had not been excluded from the district. [Formerly 545.602]

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

(2) Upon receipt of a petition for exclusion, the board of directors shall review the petition and shall enter its order approving the petition. The board may approve the petition subject to the requirements of ORS 545.051, 545.097 or 545.126 or may approve the petition without conditions, as the board considers appropriate. The board, as a condition of exclusion, may require the petitioners to pay all costs of exclusion, including but not limited to recording fees, a reasonable administrative fee and all past due charges and assessments of the district attributable to the petitioners and the lands of the petitioners. When any district facilities, including but not limited to ditches, pipelines, headgates or other waterworks, are on the lands of the petitioners, if the petitioners propose to change the use of the land, the district may require the petitioners to provide measures to protect those facilities and may require that appropriate easements be provided if there are none of record. [Formerly 545.604; 1999 c.452 §12]

545.101 Exclusion of subdivisions with three or more tracts on each acre of land; exceptions. (1) When a subdivision is platted after September 13, 1975, under ORS 92.010 to 92.190, if the subdivision has three or more tracts on each acre of land within the subdivision, the subdivision shall be excluded and taken from the district pursuant to ORS 545.097 to 545.126 at the time that the plat is approved by the appropriate governing body.

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

(a) Also supplies domestic water approved by the Department of Human Services to the subdivision; or

(b) Agrees to supply water to the subdivision. A district may require as a condition of any agreement that:

(A) The subdivider install underground pipe from the district's designated point of delivery to each lot or parcel in the subdivision as shown on the plat approved by the appropriate governing body;

(B) The subdivider install a meter or other adequate measuring device at the delivery point to the subdivision and for each lot or parcel;

(C) The subdivider provide adequate easements for the delivery system and make provision for the maintenance and repair of the delivery system; and

(D) The subdivider provide any other measures that the district considers necessary for the proper and efficient delivery of water to the subdivision and for the efficient administration of such delivery.

(3) Nothing in subsection (2)(b) of this section requires a district to agree to deliver water to a subdivision. [Formerly 545.611; 1999 c.505 §1]

545.102 [Amended by 1969 c.669 §13a; 1985 c.561 §8; 1995 c.42 §57; renumbered 545.271 in 1995]

545.104 [Amended by 1981 c.897 §60; 1995 c.42 §58; 1995 c.696 §27; renumbered 545.275 in 1995]

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

545.106 [Amended by 1995 c.42 §71; renumbered 545.335 in 1995]

545.108 [Amended by 1991 c.459 §423a; 1995 c.42 §107; renumbered 545.471 in 1995]

545.109 Recording minutes of board. When the board of directors excludes any lands from the district upon petition for exclusion, if the exclusion changes the boundaries of the district, the board shall make an entry in its minutes describing the boundaries of the district. For that purpose the board may have a survey made of such portions of the district as it considers necessary. A certified copy of the entry of the minutes of the board excluding any land, certified by the secretary of the board, shall be filed for record in the county clerk's office of each county within which any land of the district is situated. [Formerly 545.614; 1999 c.452 §13]

545.110 [Amended by 1995 c.42 §56; renumbered 545.257 in 1995]

545.112 [Amended by 1995 c.42 §64; renumbered 545.301 in 1995]

545.113 State agency to pay assessment and charges or to petition for exclusion. Every state agency acquiring land within the boundaries of an irrigation district shall:

(1) Pay all assessments and other charges that may be lawfully charged by the irrigation district and that are chargeable to the owner or occupier of the land; or

(2) File with the board of directors of the district a petition requesting that the land be excluded from the district in accordance with ORS 545.097 to 545.126. [Formerly 545.615]

545.114 [Amended by 1995 c.42 §65; renumbered 545.303 in 1995]

545.116 [Amended by 1995 c.42 §66; renumbered 545.305 in 1995]

545.117 [Formerly 545.616; repealed by 1999 c.452 §30]

545.118 [Repealed by 1989 c.182 §49]

545.119 [1993 c.771 §15; renumbered 545.279 in 1995]

545.120 [Repealed by 1975 c.771 §33]

545.122 [Repealed by 1969 c.344 §8]

545.123 Redivision of district; election of director. (1) When land is excluded from a district by proceedings under ORS 545.097, 545.099, 545.101, 545.105 or 545.109, if the district is subdivided for the election of directors and as a result of the exclusion of the land the deviation in acreage among the divisions is greater than 10 percent, the board of directors, not earlier than 30 days after the final order making the exclusion, shall make an order redividing the district. Redivision shall be done in the same manner as provided for the initial division of the district in ORS 545.033 (2).

(2) If redivision results in the creation of a division without a qualified representative on the board of directors, the position of director from that division shall be filled at the next general election of the district. When the newly elected director assumes office, if there are two or more directors from another division, the term of office of the director having the least time left to serve shall expire. The initial term of office of the newly elected director shall be the same as the remaining term of the director whose term expires as provided under this subsection. [Formerly 545.618; 1999 c.452 §14]

545.124 [Amended by 1995 c.42 §59; renumbered 545.283 in 1995]

545.126 Liability of excluded lands for district's obligations. ORS 545.097 to 545.126 shall not operate to release any lands excluded from the district from any lien on the lands or any obligation to pay any valid outstanding bonds or other indebtedness of the district at the time of the filing of the petition for exclusion of the lands. The lands shall be held subject to the lien, and answerable and chargeable for the payment and discharge of all outstanding obligations at the time of the filing of the petition, as fully as though the petition were never filed and the order of exclusion never made. If lands were subdivided into small tracts of less than one acre after the bonded indebtedness is apportioned to the lands on a per acre basis, the required payments shall be computed to the nearest one-tenth acre. For

the purpose of discharging the outstanding indebtedness, the lands so excluded shall be considered part of the irrigation district. Notwithstanding the exclusion of land from the district, all provisions otherwise available to compel the payment by the land of its quota or portion of the outstanding obligation if the exclusion had never been accomplished, may be resorted to in order to compel and enforce the payment by the land of its quota or portion of the outstanding obligations of the irrigation district for which it is liable. However, the land excluded shall not be held answerable or chargeable for any obligation incurred after the filing of the petition for exclusion. This section shall not apply to any outstanding bonds or other obligations or indebtedness the holders of which have assented to the exclusion of such lands from the district. [Formerly 545.620]

(Union or Merger of Districts)

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

DISTRICT ELECTIONS AFTER FORMATION

(Generally)

545.135 Elections subsequent to organization of district; election of directors. (1) Except for the second Tuesday in November next following the organization of the district, an election shall be held in each district on the second Tuesday in November of each year, at which one or more directors shall be elected. The person receiving the highest number of votes for any office to be filled shall be elected, and shall hold office for three years from the first Tuesday in January next following the election and until a successor is elected and qualified. The qualifications for a director shall be those set forth in ORS 545.043.

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

(3) Within 10 days after receiving the certificate of election provided for in ORS 545.153, the director shall take the official oath and file it in the office of the board of directors. [1995 c.42 §30]

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

(2) Prior to the publishing and posting of the notices required in subsection (1) of this section, the board must appoint for each division, from the electors of the division, three judges of election, who shall constitute a board of election for the division. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the division at that hour may appoint a board of election from the group of electors present. In its order appointing the board of election, the board of directors must designate the place within the division where the election is to be held. The board may designate the district office or any other location within the district as the place where the election is to be held. If one location serves as the place of election for more than one division, the board of directors may appoint from among the electors

of the divisions a single three-member board of election for the divisions.

(3) Candidates may be nominated for any election in the same manner as candidates may be nominated at the organization election described in ORS 545.041. Openings for the board of directors of an irrigation district shall be advertised in a newspaper of general circulation within the boundaries of the district for which the candidate would be elected or posted in three public places within the district at least 60 days prior to the election. All nominations shall be filed with the secretary of the board not more than 75 nor less than 35 days before the date of the election. In districts having more than 25 electors, a person shall not be elected as a member of the board of directors unless the person has been nominated either by petition or at an assembly 35 days prior to the date of the election.

(4) If, after expiration of the date for nomination, only one qualified candidate has been nominated for the office to be filled, it shall not be necessary to hold an election. The board of directors shall declare such candidate elected as director at the next regularly scheduled board meeting or at a special meeting called for that purpose. The secretary immediately shall make out and deliver to the nominated person a certificate of election signed by the secretary and authenticated with the seal of the board.

(5) The secretary shall cause the names of all persons nominated to be printed on ballots as candidates for the offices for which they have been nominated. [Formerly 545.026; 1999 c.452 §15; 2001 c.257 §2]

545.139 Board of election; powers and duties; ballots not governed by election law. The judges who constitute the board of election for a precinct shall elect a presiding officer for the board who may administer all oaths required in the progress of an election. If during the progress of an election any judge fails to act, the presiding officer may appoint additional judges. Any member of the board of election may administer and certify oaths required to be administered during the progress of election. Before opening the polls each member of the board must take and subscribe an oath faithfully to perform the duties imposed by law. Any elector of the precinct may administer and certify such oath. The polls shall be open on the day of the election during the hours fixed by ORS 254.325. The provisions of the general election laws of this state concerning the form of ballot shall not apply to the elections held under the Irrigation District Law. [Formerly 545.028]

545.141 Conduct of election; challenge and verification of qualifications of elector; counting ballots. (1) Voting may commence as soon as the polls are open and may continue during all the time the polls remain open. Voting shall be conducted as nearly as practicable in accordance with the general election laws. An absent elector may obtain an absentee ballot and vote, as nearly as practicable, in the manner provided for absentee electors in ORS chapter 253.

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

(3) Any election board member or elector present at the time of voting shall challenge a person offering to vote in any election whom the board member or elector knows or believes to be unqualified as an elector. Any challenge shall be made in accordance with ORS 254.419. The elector's statement required by ORS 254.419 shall include the location of the claimed land and the precise acreage for which the elector is claiming ownership or voting authorization. Upon receipt of the elector's sworn statement, the secretary of the district shall attempt to verify the elector's voting qualifications according to the provisions of the Irrigation District Law.

(4) As soon as the polls are closed the judges shall open the ballot box and shall commence counting the votes. The ballot box shall not be removed from the room in which the election is held until all ballots have been counted. The counting of the ballots shall be public. The presiding officer of the board of election or one of the judges shall take ballots from the ballot box one at a time, open them and read aloud the name of each person named on the ballot and the office for which the person is voted. If the intent of the voter is clear, the vote shall be counted and not rejected for lack of form. The judges shall keep an accurate account of the votes by tallies in duplicate and the counting shall continue without adjournment until all votes have been counted. [Formerly 545.030; 2001 c.257 §3]

545.142 [Amended by 1995 c.42 §79; renumbered 545.365 in 1995]

545.144 [Amended by 1989 c.182 §8; 1995 c.42 §80; renumbered 545.367 in 1995]

545.145 Certificate of vote; stringing of ballots; sealing of returns; delivery to board secretary; recount. As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the tallies, or shall be attached to those papers. The certificate shall state the number of votes each candidate has received and shall designate the office for which the person was a candidate. The number of votes stated on the certificate shall be written in words and figures at full length. Each certificate shall be signed by all the members of the board of election. One of the certificates and the tally paper to which it is attached shall be retained by the presiding officer of the board of election and preserved by the presiding officer for at least six months. During the counting, the ballots shall be strung on a cord or thread by the presiding officer in the order in which they are entered upon the tally lists. The ballots, together with the other certificate and tally papers to which it is attached and a poll list of the voters voting at the election, shall be sealed by the presiding officer in the presence of the other judges, indorsed "Election returns of (naming the precinct) precinct," and directed to the secretary of the board of directors. The ballots and other materials shall be immediately delivered to the secretary of the board by the presiding officer, or by another safe and responsible carrier designated by the presiding officer. The ballots shall be kept unopened for at least six months, except that the ballots may be opened at any time at the direction of the board of directors for the purpose of canvassing the returns or conducting a recount of the ballots. If any person is of the opinion that the vote of any precinct has not been correctly counted, the person may appear on the day appointed by the board of directors to open and canvass the returns and demand a recount of the votes of the precinct that the person claims have been incorrectly counted. [Formerly 545.032]

545.146 [Amended by 1995 c.42 §81; renumbered 545.369 in 1995]

545.148 [Amended by 1995 c.42 §82; renumbered 545.371 in 1995]

545.149 Canvass of returns; standard for rejecting certain election documents; canvass to be in public. A list, tally paper or certificate returned from any election shall not be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors shall meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns of each precinct in which polls have been opened have been received, the board of directors shall then and there canvass the returns. However, if all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass shall be made in public and by opening the returns and computing the vote of the district for each person voted for, and declaring the result. [Formerly 545.034]

545.150 [Amended by 1989 c.182 §9; 1995 c.42 §83; renumbered 545.373 in 1995]

545.152 [Amended by 1989 c.182 §10; 1995 c.42 §84; renumbered 545.375 in 1995]

545.153 Statement of result; contents; certificate of election; effect of informalities in conduct of election. (1) The secretary of the board of directors shall, as soon as the result is declared, enter on the records of the board a statement of the result. The statement must show:

(a) The whole number of votes cast in the district and in each division of the district.

(b) The names of the persons voted for.

(c) The office for which each person received votes.

(d) The number of votes given in each division to each person.

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

(f) The term of office for which each person received votes.

(2) The board of directors shall declare elected the person having the highest number of votes given for each office. The secretary shall immediately make out and deliver to such person a certificate of election, signed by the secretary and authenticated with the seal of the board. No informalities in conducting any election shall invalidate it if the election has been otherwise fairly conducted. [Formerly 545.036; 2001 c.257 §4]

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

545.156 [Formerly 545.038; repealed by 1999 c.452 §30]

(Elections by Mail)

545.163 Procedures for conducting election by mail. (1) An irrigation district may conduct a district election by mail. The board of directors of the district shall designate by resolution, not later than the 50th day before any election, that an election will be conducted by mail.

(2) At an election by mail held for the purpose of electing a person to the board of

directors, the qualifications for a director shall be those set forth in ORS 545.043.

(3) An election by mail shall be conducted within the district or divisions within a district according to, as nearly as is practicable, the general provisions of ORS 545.137, 545.139, 545.141, 545.145, 545.149 and 545.153. However, the judges of election appointed under ORS 545.137 (2) shall not be required to be in attendance until after the poll closing time designated in ORS 254.325.

(4) The secretary of the board of directors for the district shall mail an official ballot with a return identification envelope and a secrecy envelope to an elector, not sooner than the 20th day before the date of the election to be conducted by mail and not later than the 14th day before the election. The secretary shall cause to be placed in or on each return identification envelope a statement to be completed by the elector that says that the elector, under penalty of perjury, swears and affirms that the elector is the sole elector authorized to cast the ballot. In addition, the secretary shall verify that, according to the records of the district as of the 21st day before the election, the elector is entitled to vote.

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

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

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

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

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

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

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

(12) A ballot shall be counted only if:

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

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

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

(13) Using the records of the district, the secretary shall verify the name and land ownership of each elector. If the secretary determines that an elector to whom a replacement ballot has been issued has voted more than once, the secretary shall not count any ballot cast by that elector. [Formerly 545.045; 1999 c.452 §16]

(Electoral Districts)

545.167 Division of district for election of directors; procedure. (1) In any irrigation district in which the board of directors is elected at large, the district may be subdivided for the election of directors when:

(a) In the judgment of the board it is necessary or beneficial to the welfare of the district; or

(b) There is filed with the board a petition that has been signed by a number of electors of the district equal in number to 20 percent of the votes cast at the last preceding election at which a director of the board was elected.

(2) Upon the determination of the board or upon the filing of a petition requesting division of the district, the board shall submit the question to the district electors at the next regular election or at a special election ordered by the board for such purpose.

(3) If a majority of electors voting on the question approves the division of the district, immediately following the election the board shall divide the district in the manner provided in ORS 545.207. The divisions shall be numbered first, second and third. One director shall be elected to the board of directors of the district from each division. However, nothing in this section or in ORS 545.169 and 545.171 shall be construed to prevent the directors who are serving when the district is divided from serving out the unexpired portion of their terms. [Formerly 545.624; 1999 c.452 §17]

545.169 Election of directors from newly created divisions. (1) At the district election next following the dividing of the district into divisions, the office of the director whose term expires the following January shall be filled by election of a director from the newly created division which is without representation on the board.

(2) If there are two divisions without representation, then a director shall be elected at the district election next following the division of the district from the newly created division without representation on the board that contains the largest number of electors. The other newly created division shall elect a director at the second general election following the division, which director shall take office at the expiration of the term of the second retiring member of the board. [Formerly 545.626]

545.171 Election precincts in divisions; alteration. For the purpose of elections in such district, the board of directors must establish a convenient number of election precincts in the divisions and define the boundaries of the precincts. An entire subdivision of a district may be designated as a single election precinct. For purposes of conducting an election, the board may designate a place that is within a precinct, at the district office or at any other location within the district as the place where the election is to be held. The precincts may be changed from time to time as the board considers necessary. [Formerly 545.628; 1999 c.452 §18]

545.172 [Amended by 1995 c.42 §75; renumbered 545.349 in 1995]

545.174 [Amended by 1995 c.42 §76; renumbered 545.351 in 1995]

545.176 [Amended by 1973 c.305 §16; 1995 c.42 §77; renumbered 545.355 in 1995]

545.178 [Amended by 1965 c.541 §1; 1995 c.42 §78; 1995 c.212 §3; renumbered 545.359 in 1995]

BOARD OF DIRECTORS

(Organization)

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

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

(b) Establish the time for regular monthly meetings of the board as required under ORS 545.185.

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

(d) Establish the date the board shall next meet as a board of equalization under ORS 545.418.

(2) The county treasurer of the county in which the petition for the organization of the district was filed shall be ex officio treasurer of the district. Any moneys collected by other county treasurers on behalf of the district shall be transmitted to the district treasurer, together with a statement specifying the fund into which it is to be deposited. However, if the secretary of the irrigation district is authorized to collect operation and maintenance assessments or emergency assessments, as provided in this chapter, the secretary shall disburse the assessment moneys upon orders of the board of directors of the district. Any county treasurer having custody or control of funds of an irrigation district shall be responsible for them on the official bond as county treasurer. [Formerly 545.062]

545.183 Compensation and expenses of officers and employees; membership fees in associations. The board shall fix the compensation to be paid to the other officers and employees of the district. The board may pay, from the funds of the district, annual membership fees and assessments to irrigation, drainage or water users′ associations. [Formerly 545.066]

545.185 Meetings of board; quorum; public inspection of records. The board of directors shall hold a regular monthly meeting in its office. The time of the regular monthly meeting shall be fixed by resolution

of the board at the regular annual meeting required by ORS 545.181. Special meetings required for the proper transaction of business may be held when called by the president or ordered by a majority of the board, by an order entered in the records of the board. Five days' notice of the special meeting must be given by the secretary to each member not joining in the order. The order must specify the business to be transacted, and business other than that specified may not be transacted at the special meeting, unless all the members are present. All meetings of the board must be public, and a majority of the members shall constitute a quorum for the transaction of business. However, on all questions requiring a vote there shall be concurrence of a majority of the board. All records of the board shall be open to public inspection during business hours. [Formerly 545.068; 1999 c.452 §19]

545.187 Vacancy in office when director ceases to be resident or landowner; appointment of successor. If a director of an irrigation district ceases to be a resident of the State of Oregon or ceases to be an owner, or a shareholder of a corporate owner, of land that is subject to the charges or assessments of the district situated in the division from which the director was elected or appointed, the position of the director shall become vacant and the vacancy shall be filled by appointment as provided in ORS 198.320. [1995 c.754 §10]

545.189 Recall of director; procedure; required number of signatures for recall petition. (1) A district director may be recalled as provided in ORS 198.410 to 198.440, except that the recall petition shall be signed by a number of persons who are qualified to vote in the district, or in the subdivision of the district from which the director was elected, that is equal to but not less than the lesser of:

(a) Fifteen percent of the total number of votes that may be cast in an election for the director; or

(b) Fifteen percent of the total votes cast in the electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term.

(2) Not more than one of the electors of a multiple ownership as described in ORS 545.007 (1)(a) may sign a recall petition. [1995 c.754 §2]

545.192 [Amended by 1983 c.557 §1; 1995 c.42 §124; renumbered 545.511 in 1995]

545.194 [Amended by 1983 c.557 §2; 1995 c.42 §125; 1995 c.212 §1; renumbered 545.513 in 1995]

545.196 [Amended by 1969 c.694 §25; 1981 c.94 §43; 1983 c.557 §3; 1995 c.42 §126; renumbered 545.515 in 1995]

545.198 [Amended by 1981 c.94 §44; 1995 c.42 §127; renumbered 545.517 in 1995]

(Change in Number of Directors)

545.199 Increase in number of directors upon determination of board or petition; election on increase. (1) An irrigation district may increase the number of its board of directors from three to five members when:

(a) In the judgment of the board of directors, it is necessary or beneficial to the welfare of the district; or

(b) Fifty or more qualified electors within the district file with the board a petition requesting an election for the purpose of increasing the number of directors.

(2) Upon the determination of the board or upon the filing of a petition requesting the increase, the board shall submit the question to the district electors at the next regular election or at a special election ordered by the board for such purpose. At the same election, two persons shall be elected to serve as directors if the electors, by a majority of votes cast at the election, increase the number of the board. [Formerly 545.018; 1997 c.249 §182; 1999 c.452 §20]

545.200 [Repealed by 1969 c.345 §20]

545.202 [Amended by 1983 c.557 §4; 1995 c.42 §128; renumbered 545.519 in 1995]

545.203 Election of additional directors; terms of office. Upon canvass of the returns, as provided in ORS 545.149, if there is any change voted, the person receiving the highest number of votes for the office of director at the election shall serve as director of the district at large for a three-year term that shall be considered to have started on the first Tuesday in January that next followed the last previous general election. The person receiving the next highest number of votes shall serve as director of the district at large for a term of two years that shall be considered to have started on the first Tuesday in January that next followed the last previous general election. [Formerly 545.020]

545.204 [Amended by 1983 c.557 §5; 1993 c.97 §17; 1995 c.42 §130; renumbered 545.529 in 1995]

545.206 [Amended by 1983 c.557 §6; 1995 c.42 §131; renumbered 545.532 in 1995]

545.207 Redivision of district upon increase in directors; representation of divisions; voting qualifications. Upon an increase of the number of directors from three to five, the board shall divide the total acreage of the district that is subject to assessment or charges by the district, into five divisions. Each division shall be as nearly equal in total acreage as may be practicable. In addition, the board shall define and particularly describe division boundaries and make use, in so far as may be desirable, of

such natural boundaries as may exist in the district. The divisions shall be numbered first, second, third, fourth and fifth. As the terms of the present members of the board of directors expire, one director who is a resident of Oregon and either a bona fide owner of land or a shareholder of a bona fide corporate owner of land situated in the division, shall be elected from each division as the representative of that division on the board of directors. Voting for director of each division shall be by qualified electors within the division. However, the qualified electors of any district may, by a majority vote, determine that voting for directors shall be by the qualified electors of the entire district. If an elector is an owner in two or more divisions and resides in one of them, the elector shall vote in the division of residence. If an elector is a nonresident of the district, the elector may choose to vote in any one division in which the elector is an owner of land. When a nonresident landowner chooses to vote in any one division, the landowner shall file with the secretary of the board a notice of the choice of division where the nonresident landowner chooses to vote. A nonresident landowner's choice to vote in a certain division is permanent and remains permanent until the nonresident landowner's ownership status changes in any way or until the nonresident landowner becomes a resident owner. [Formerly 545.022; 1999 c.452 §21]

545.208 [Amended by 1983 c.557 §7; 1995 c.42 §132; renumbered 545.535 in 1995]

545.210 [Amended by 1995 c.42 §133; renumbered 545.537 in 1995]

545.211 Decrease in number of directors; redivision of district; terms of office. The number of directors may be decreased to three substantially in the same manner as that provided for the increase of directors. When the number of directors is decreased, the board shall redivide the district into three divisions. The existing board shall continue in office until the expiration or other termination of their terms. Successors shall be appointed or elected only in divisions where representation will terminate with the term of a director. Directors shall thereafter be appointed or elected only as necessary to fulfill the requirements of the decrease in membership of the board, and so that the term of one director will expire each year. [Formerly 545.024]

545.212 [Amended by 1969 c.694 §26; 1983 c.557 §8; 1995 c.42 §134; renumbered 545.539 in 1995]

545.214 [Amended by 1969 c.694 §27; 1995 c.42 §135; renumbered 545.541 in 1995]

545.216 [Amended by 1989 c.182 §12; 1995 c.42 §136; renumbered 545.545 in 1995]

545.218 [Amended by 1995 c.42 §129; renumbered 545.521 in 1995]

545.220 [Repealed by 1995 c.42 §184]

(General Powers and Duties)

545.221 Powers and duties of board as to management of district; water deliveries. (1) The board shall:

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

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

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

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

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

(3) The bylaws, rules and regulations established under this section may designate, either generally or particularly, the points of delivery within the district to which the district will make water deliveries for the use and benefit of member users at district expense. Water deliveries so made shall be in full and complete discharge of the district's obligation of water deliveries to member users under the Irrigation District Law. [Formerly 545.064; 1999 c.452 §22]

545.222 [Amended by 1979 c.562 §19; repealed by 1995 c.42 §184]

545.224 [Amended by 1983 c.557 §9; 1995 c.42 §67; renumbered 545.307 in 1995]

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

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

(b) Institute and maintain all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the Irrigation District Law, or to enforce, maintain, protect or preserve rights, privileges and immunities created by the Irrigation

District Law, or acquired in pursuance of the Irrigation District Law.

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

(3) When an audit is made in accordance with the provisions of ORS 297.405 to 297.555, the auditors shall prepare and file with the Secretary of State a certified copy of the audit report. [Formerly 545.070]

545.226 [Repealed by 1989 c.182 §49]

545.228 [1967 c.503 §4; 1993 c.771 §18; renumbered 545.551 in 1995]

545.230 [1967 c.503 §5; 1995 c.42 §137; renumbered 545.553 in 1995]

545.232 [1967 c.503 §6; 1995 c.42 §138; 1995 c.212 §4; renumbered 545.555 in 1995]

545.234 [1967 c.503 §7; 1995 c.42 §139; 1995 c.79 §305; renumbered 545.557 in 1995]

545.236 [1967 c.503 §8; 1995 c.42 §140; renumbered 545.559 in 1995]

POWERS OF DISTRICTS

(Acquisition of and Entry onto Land)

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

(2) Any person exercising the right of entry granted under this section shall not cause unnecessary damage to the property of the water user. The landowner shall not be responsible to the person or the district for any injury or damage to the person or district arising out of or occurring by reason of the entry, except when the landowner intentionally causes injury or damage to the person or district.

(3) The right of entry granted by this section shall not constitute a right of entry by the public onto the premises of the landowner. [Formerly 545.081]

545.239 Right to enter upon and acquire lands and water rights; right of condemnation. (1) The board of directors and its agents and employees have the right to enter upon any land in the manner provided by ORS 35.220 to make surveys and may locate the necessary irrigation or drainage works and the line for any canals and the necessary branches for the works or canals on any lands that may be considered best for such location. The board also has the right to acquire, by lease, purchase, condemnation or other legal means, all lands, water, water rights, rights of way, easements and other property, including canals and works and the whole of irrigation systems or projects constructed or being constructed by private owners, necessary for the construction, use, supply, maintenance, repair and improvement of any canals and works proposed to be constructed by the board. The board also has the right to so acquire lands, and all necessary appurtenances, for reservoirs, and the right to store water in constructed reservoirs, for the storage of needful waters, or for any other purpose reasonably necessary for the purposes of the district.

(2) In the acquisition of property under subsection (1) of this section, the district has the right to acquire by condemnation property already devoted to public use that is less necessary than the use for which it is required by the district, whether used for irrigation or any other purpose, and any other properties owned by the state or any of its departments or commissions. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. [Formerly 545.082; 2003 c.477 §7]

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

545.242 [Amended by 1989 c.182 §13; 1995 c.42 §141; renumbered 545.565 in 1995]

545.244 [Amended by 1995 c.42 §142; renumbered 545.567 in 1995]

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

work as may be necessary to the development of the district. [Formerly 545.086]

545.246 [Amended by 1995 c.42 §143; renumbered 545.569 in 1995]

545.248 [Amended by 1989 c.182 §14; 1995 c.42 §144; renumbered 545.571 in 1995]

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

545.250 [Amended by 1995 c.42 §145; renumbered 545.573 in 1995]

545.252 [Amended by 1989 c.182 §15; 1995 c.42 §146; renumbered 545.575 in 1995]

545.253 Title to and rights in property acquired. The legal title to all property acquired under ORS 545.239, 545.241, 545.245 and 545.249 shall immediately vest in the irrigation district and shall be held by it in trust for and hereby is dedicated and set apart to the uses and purposes set forth in the Irrigation District Law. The board is authorized and empowered to hold, use, acquire, manage, occupy, possess and dispose of the property as provided in the Irrigation District Law. The title acquired by an irrigation district under ORS 545.239, 545.241, 545.245 and 545.249 shall be the fee simple or such lesser estate as shall be designated in the judgment of appropriation. [Formerly 545.090; 2003 c.576 §497]

545.254 [Amended by 1979 c.562 §20; 1989 c.182 §16; 1995 c.42 §147; 1995 c.79 §306; renumbered 545.577 in 1995]

545.256 [Amended by 1979 c.284 §167; 1981 c.178 §16; 1995 c.42 §148; renumbered 545.579 in 1995]

545.257 Authority of irrigation district to acquire domestic or municipal water works; assumption of obligations; sale of surplus water; impairment of irrigation service forbidden. When an irrigation district is authorized by the electors of the district as provided in ORS 545.305 and when it appears necessary, proper or beneficial to its inhabitants, the irrigation district may:

(1) Acquire by gift, lease, purchase, condemnation or other legal means, domestic and municipal water works or water systems, and property incident to the works or systems, including reservoirs, pumps, mains, stations, water, water rights and all appurtenances. As a part of a transaction of acquisition, the district may assume any outstanding obligations on the water works or water systems. However, a right of condemnation shall not be granted against property of a city.

(2) Construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of, domestic and municipal water works or systems and property, and all appurtenances incident to the works, systems or property.

(3) Furnish water for domestic and municipal uses to premises and inhabitants within its district. In connection with furnishing water for domestic and municipal use, the district may supply, furnish and sell, for the uses mentioned in this section, any surplus water over and above the domestic and municipal needs of its inhabitants, to persons or other public bodies as defined in ORS 174.109, either within or outside the district. However, the power to furnish water for domestic and municipal uses granted by this section shall not be exercised in such a manner as to impair the service of the district in furnishing water for irrigation purposes. [Formerly 545.110; 2003 c.802 §133]

545.258 [Amended by 1995 c.42 §149; renumbered 545.581 in 1995]

545.260 [Amended by 1969 c.694 §28; 1981 c.94 §45; 1989 c.182 §17; 1995 c.42 §150; renumbered 545.585 in 1995]

545.262 [Amended by 1995 c.42 §151; renumbered 545.589 in 1995]

545.264 [Amended by 1995 c.42 §152; renumbered 545.595 in 1995]

545.266 [Amended by 1995 c.42 §153; renumbered 545.599 in 1995]

545.268 [Amended by 1995 c.42 §154; renumbered 545.603 in 1995]

545.270 [Amended by 1969 c.694 §29; 1995 c.42 §155; renumbered 545.607 in 1995]

(Distribution of Water)

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

545.272 [Amended by 1995 c.42 §156; renumbered 545.617 in 1995]

545.274 [Amended by 1989 c.182 §18; 1995 c.42 §157; renumbered 545.621 in 1995]

545.275 Lien on crops for water supplied for irrigation; enforcement; attorney fees. (1) Any person or irrigation district that supplies water to any person or irrigation district for irrigation of crops shall, upon complying with subsection (2) of this section, have a lien upon all crops raised by the use of such water for the reasonable value of the water supplied as of the date when the water was first supplied for the crops. The lien shall be a continuing one and shall bind the crops after, as well as before, they have been gathered. The lien shall be preferred to all other liens or encumbrances upon the crops, except mortgages given to the state for the purchase of seed wheat.

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

(3) The lien may be enforced by a suit in equity. The remedy provided by this section does not abrogate any other remedy provided by law for the collection of dues, charges or assessment for water furnished. The court may award reasonable attorney fees to a person or irrigation district if the person or district prevails in an action to foreclose a lien under this section. The court may award reasonable attorney fees to a defendant who prevails in an action to foreclose a lien under this section if the court determines that the plaintiff had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

(4) If all or part of the crop is sold prior to the filing of the lien, or possession delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of, and its identity lost or destroyed or if the crop is commingled with like crops so that it cannot be segregated, and if the purchaser, agent, broker, cooperative agency or other person was notified of the filing of the lien by being furnished with a certified copy of the claim of lien, then the lien attaches to the proceeds of sale remaining in the possession of the purchaser, agent, broker, cooperative agency or other person at the time of the notice. The lien shall be as effective against the proceeds as against the crop itself. [Formerly 545.104]

545.276 [Renumbered 545.625 in 1995]

545.278 [Amended by 1995 c.42 §158; renumbered 545.629 in 1995]

545.279 District may require water control devices and measuring devices; notice to water user; objections; hearing. (1) The board of directors may require a water user of the district:

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

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

(2) When practicable, water control devices and measuring devices under this section shall be constructed on property for which the district holds existing easements.

(3) Except when an emergency requires the immediate installation of a water control device to avoid loss of water, the board shall notify a water user in writing that the water user is required by the board under this section to install a water control device or a measuring device. The notice shall be delivered personally or mailed by registered or certified mail, return receipt requested, to the water user. Within the 20-day period immediately following the date of personal delivery or mailing of the notice or at any time before the date of the next regular meeting of the board, the water user may file with the secretary of the board a written objection to the requirement for installation of the device and request a hearing before the board. After the hearing, the board may affirm, amend or rescind its order to the water user for installation of a water control device or measuring device. The decision of the board shall be final. [Formerly 545.119]

545.280 [Amended by 1989 c.182 §19; 1995 c.42 §159; renumbered 545.631 in 1995]

545.282 [Amended by 1995 c.42 §160; renumbered 545.633 in 1995]

545.283 Joinder of districts in acquisition or construction of irrigation or other water use works. (1) Two or more irrigation districts or other water users' organizations, organized under the laws of this state or of any adjoining state, may enter into agreements with each other and with the United States for the joint acquisition, operation, maintenance, management, control, construction, care, repair or improvement of works for diverting, impounding, distributing, irrigating or draining of lands within the boundaries of the districts or other water users' organizations. Subject to ORS 545.257, agreements made under this section may include provisions to furnish water for domestic and municipal uses to premises and inhabitants within the boundaries of the districts or other water users' organization.

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

(3) Agreements made under this section may provide for joint ownership, several ownership or ownership in common of the property convenient for the joint purposes of the parties to the agreement and may provide for the terms under which the property or respective portions of the property shall be held.

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

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

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

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

(8) So far as necessary for carrying out the purposes of this section, a cooperating district or other water users' organization in an adjoining state may hold title to property in this state, and a cooperating district or organization in this state may hold title to property in the adjoining state. [Formerly 545.124]

545.284 [Amended by 1989 c.182 §20; 1995 c.42 §161; renumbered 545.635 in 1995]

545.286 [Amended by 1989 c.182 §21; 1995 c.42 §162; renumbered 545.637 in 1995]

545.287 Directors may construct or maintain improvements, levy assessments or provide for charges. (1) This section applies:

(a) When a parcel of land lying within an irrigation district is subdivided or partitioned into tracts, and the owner has made no provision which in the opinion of the board of directors is adequate for the proper distribution of water to the tracts; or

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

(2) When the interest or convenience of such tracts requires the construction, repair or maintenance of any ditch, flume, dike, aqueduct or other improvement, the board may construct, repair or maintain the improvement. In order to defray the whole or any portion of the cost and expense of the improvement, the board may levy and collect an assessment upon all tracts specially benefited by the improvement or provide for a charge against the landowner of any tract specially benefited by the improvement. The board may determine what lands are specially benefited by the construction, repair or maintenance, and the amount to which each tract is benefited. [Formerly 545.408; 1999 c.452 §23]

545.288 [Amended by 1979 c.562 §22; 1995 c.42 §163; renumbered 545.639 in 1995]

545.290 [Repealed by 1995 c.42 §184]

545.291 Apportionment of water to tracts; employment of person to distribute water; assessment or charge; lien on land. When a parcel of land lying within an irrigation district is subdivided or partitioned into tracts, and plats of such subdivision are filed as provided by law, if the owners fail properly to apportion the water to their var-

ious tracts in the subdivision, the board of directors may employ some competent person to distribute and apportion water for the tracts. The reasonable cost of the distribution and apportionment of water shall be apportioned each year by the board to the tracts. The cost of the distribution and apportionment of water shall be assessed or charged by the board as a special charge to the tracts in the same manner as other assessments or charges are made and extended upon the tax rolls of the county in which the irrigation district lies. The assessments or charges so levied and apportioned shall be a lien upon the tracts and shall be collected in the same manner as all other assessments or charges are levied and collected by the board. [Formerly 545.410; 1999 c.452 §24]

545.293 Resolution for water distribution works or services; hearing of objections; construction, repair or maintenance of improvement; apportionment of costs; assessment. (1) When the board of directors considers it expedient or necessary to construct, repair or maintain ditches, flumes, dikes, aqueducts or other improvement, as provided in ORS 545.287, or to employ the services of some competent person to distribute and apportion water for any subdivision, as provided in ORS 545.291, the board shall declare its intention by resolution.

(2) A resolution shall be posted in three public places in the subdivision for five days. Within 10 days from the date when the resolution is posted, the owner of any property within a tract may file with the secretary a written remonstrance against the proposed improvement or employment. The board hearing the remonstrances may, in its discretion, overrule any remonstrance and, by resolution, order construction, repair or maintenance of the improvements. The board may either enter into a contract to complete the improvement or, in its discretion, complete the improvement under its own supervision. After the work on the improvement is completed the board shall, by resolution, apportion the costs and declare an assessment upon each tract benefited. The assessments declared under this section shall be final and conclusive. [Formerly 545.412]

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

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

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

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

(3) The charges made under subsection (2) of this section shall be set forth in the order allowing the inclusion of the lands in the district. A certified copy of the order shall be recorded in the same manner as provided by ORS 545.079 and the charges and assessments paid, collected and enforced as provided by that section.

(4) For the purposes of this section the summit of the Cascade Mountains is considered to be a line beginning at the intersection of the western boundary of Hood River County with the northern boundary of the State of Oregon, thence southerly along the western boundaries of the counties of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [Formerly 545.065]

(Finances)

545.301 Financing acquisition of water works; contracts with federal government; approval by electors. In carrying out and executing the powers conferred in this section and ORS 545.257, 545.303 and 545.305, an irrigation district may borrow money and issue bonds or other evidences of indebtedness. The district may contract with the United States or any agency thereof for the acquisition, construction, reconstruction, maintenance or operation of all or part of a

domestic and municipal water system. The powers granted by this section shall not be exercised without the prior approval of a majority of the electors of the district at an election conducted as declared in ORS 545.305. However, no authority granted before March 5, 1945, to any irrigation district by a majority of the electors of the district at an election held pursuant to any other law shall be limited or otherwise affected by this section and ORS 545.257, 545.303 and 545.305. [Formerly 545.112]

545.303 Water works system to be self-sustaining; payment of indebtedness; rates; separate accounts. (1) The district shall charge consumers for the water furnished in amounts so that the domestic and municipal water system shall be self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition of the water system shall be paid from the revenues so collected and from the proceeds of the disposition of the whole or any part of the water system. The board of directors may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the type of use, according to the amount of water used and according to whether the property serviced lies within or outside the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic and municipal water system. All moneys collected from the operation and disposition of the whole or any part of the water system shall be deposited in a special fund to be designated "Domestic Water Fund." Moneys in the fund shall be disbursed only in connection with the water system. [Formerly 545.114]

545.305 Election concerning acquisition of water works. (1) When the board of directors of an irrigation district has determined by resolution that it is for the best interests of its inhabitants that it exercise any of the powers mentioned in ORS 545.257, including the refunding of outstanding bonds, the board shall, by resolution, specify the particular powers it proposes to exercise and order an election to be conducted. Upon the order being entered, an election shall be held by the qualified electors of the district to determine:

(a) Whether or not bonds in any amount designated by the board in such order shall be issued for any purpose necessary or convenient in carrying out this section and ORS 545.257, 545.301 and 545.303; and

(b) Whether or not the board shall proceed to exercise the powers, or any of them, specified in the resolution.

(2) Notice of the election shall be given in the manner provided in ORS 545.511, and that section shall apply to all subsequent proceedings under this section and ORS 545.257, 545.301 and 545.303. [Formerly 545.116]

545.307 Investment of surplus funds in federal or state bonds. When there are surplus funds not necessary for the payment of current obligations of the district in any construction fund, operation and maintenance fund, sinking fund, United States Contract Fund, State of Oregon Contract Fund, emergency fund or any other fund of the district, the board of directors of an irrigation district may invest the surplus funds in bonds of the United States or the State of Oregon. The district may hold and dispose of the bonds at such times as may be necessary to the conduct of the business and affairs of the district. [Formerly 545.224]

545.312 [Amended by 1995 c.42 §164; renumbered 545.643 in 1995]

545.314 [Amended by 1989 c.182 §22; 1995 c.42 §165; renumbered 545.645 in 1995]

(Construction of Improvements)

545.315 Petition to construct improvements for irrigation; contents; assent of petitioners to assessment of cost of improvement. (1) The holders of title, or evidence of title, representing a majority of the acreage of any body of land within any irrigation district may file with the board of directors of the district a petition in writing, requesting the construction of any improvement necessary or expedient for the efficient irrigation of the lands.

(2) The petition shall contain:

(a) A general description of the proposed improvement;

(b) A description of the tracts, or body of land, owned by the petitioners; and

(c) A description of the exterior boundaries of the land for which the proposed improvement is to be constructed and a description of any lands that are to be excepted from the benefit or use of the proposed improvement.

(3) The petition shall also contain an agreement on the part of the petitioners that the cost of construction of the improvement shall constitute a lien upon the lands within the exterior boundaries of the land described in the petition, except for the lands that are excepted from the benefit or use of the proposed improvement, and that the lands shall be assessed for and pay the cost of the improvement.

(4) The petition shall be deemed to give assent of the petitioners to construction of the improvement and shall authorize the assessment of the cost of such improvement upon and against the lands described in the petition and not specifically therein excepted. The petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged. [Formerly 545.402]

545.316 [Amended by 1995 c.42 §166; renumbered 545.647 in 1995]

545.318 [Amended by 1995 c.42 §167; renumbered 545.649 in 1995]

545.319 Elections on question of constructing improvement; resolution of directors. (1) If the board of directors considers it for the best interest of the district that the proposed improvement be constructed, the board, by resolution, may call an election to be held within the boundaries of the land described in the petition for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. The board shall in the resolution fix the time and place of holding the election, specify the polling place and appoint three judges who shall constitute a board of election. The resolution shall also contain the ballot title to be used at the election. The ballot title shall contain such information as in the judgment of the board will advise the owners of the land to be charged with the cost of the proposed improvement as to the general nature of the improvement and the estimated cost.

(2) The board at the time of calling the election within the land described in the petition shall also by resolution call an election to be held within the district at large for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. This resolution shall contain provisions identical with those provided for in subsection (1) of this section. The election in the district at large shall be held on the same day that the election within the territory described in the petition is held. The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state applicable to irrigation districts. [Formerly 545.404]

545.320 [Amended by 1995 c.42 §168; renumbered 545.651 in 1995]

545.322 [Amended by 1989 c.182 §23; 1995 c.42 §169; renumbered 545.655 in 1995]

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

545.324 [Amended by 1989 c.182 §24; 1995 c.42 §170; renumbered 545.659 in 1995]

545.326 [Amended by 1979 c.562 §23; 1995 c.42 §171; renumbered 545.663 in 1995]

545.328 [Repealed by 1995 c.42 §184]

545.330 [Repealed by 1995 c.42 §184]

545.332 [Amended by 1989 c.182 §25; 1995 c.42 §172; renumbered 545.667 in 1995]

(Miscellaneous)

545.335 Drainage works; construction authorized; powers of districts; designation of bonds. When it appears necessary, proper or beneficial to drain any of the lands within the district, either for the benefit of the lands actually requiring drainage or for the protection of other lands within the district, and without regard to whether or not the irrigation works have been actually acquired or constructed, an irrigation district may cause drainage canals and works to be constructed. When exercising the authority granted by this section relating to drainage, the district shall have the same power and authority as is conferred on the district with regard to irrigation. All powers in the Irrigation District Law conferred upon irrigation districts with respect to irrigation shall be construed to include drainage. However, any bonds issued solely for drainage purposes shall be known as "Drainage Bonds of _____ Irrigation District." [Formerly 545.106]

DEVELOPMENT OF DISTRICT LANDS BY UNITED STATES

545.343 Obligations or contracts with United States under Reclamation Act; acquisition of federal lands. (1) For the purpose of acquiring control over government land within the district and of complying with the provisions of the Act of Congress entitled "An act to promote reclamation of arid lands," approved August 11, 1916, the board of directors may make investigations, and, based thereon, such representations and assurances to the Secretary of the Interior as may be requisite. The board may enter into any obligation or contract with the United States for:

(a) The construction, operation and maintenance of the necessary works for the delivery and distribution of water under the Federal Reclamation Act and the rules and regulations established thereunder. The board may contract for the refusal of water service to any lands which are in default in the payment of any assessment levied to carry out any contract between the district and the United States.

(b) The assumption, as principal or guarantor, of indebtedness to the United States on account of district lands.

(2) The board may also contract with the United States for a water supply or drainage works under any Act of Congress providing for or permitting the contract.

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

(4) The board may accept, on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collections of money for or on behalf of the United States in connection with any federal reclamation project. If the board accepts the appointment or authorization, the district is authorized to act as fiscal agent or to make the collections of money and to assume the duties and liabilities incident to such action. The board also has full power to do all things required by the federal statutes enacted in connection with districts serving as fiscal agents or collectors of moneys for reclamation projects, and all things required by the rules and regulations established by any department of the federal government in regard thereto. [Formerly 545.076]

545.345 Conveyance of lands to United States. Any property acquired by the district may be conveyed to the United States in so far as the property may be needed by the United States for the construction, operation and maintenance of works for the benefit of the district under any contract that may be entered into with the United States under ORS 545.343 or 545.347. [Formerly 545.078]

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

545.349 Authority to transfer land to federal government for development and colonization; repayment of expenditures; levy of assessments; funds; contracts with federal government. Any irrigation district organized under the laws of Oregon may turn over to the federal government, or any federal agency, any lands owned or controlled by the district, for the purpose of development and colonization by the federal government or federal agency. The irrigation district may levy assessments for repayment to the federal government or federal agency of the sum expended in the development of the lands, with interest on the assessments not to exceed six percent per annum. The district may also assess the lands to cover repayment to the district of its cost, with interest on the assessments not to exceed six percent per annum. The district shall deposit the moneys collected as assessments in the "Bond Fund" account, or the "United States Contract Fund" account, or the "Bond and United States Contract Fund" account, as appropriate. The latter assessments shall be in addition to the assessments which may be levied to meet the reclamation charges, interest on the reclamation charges and maintenance. Irrigation districts may enter into contracts and assume obligations with the federal government or any federal agency, as may be necessary, expedient or desirable to bring about the development of lands in the irrigation district. [Formerly 545.172]

545.351 Acquisition of lands from owners; crediting of value on charge against remainder of land. In order to make the lands available for development by the federal government or any federal agency, as provided in ORS 545.349, any irrigation district may accept from any land-

owner within the district title to any part of the land of the landowner and allow the landowner credit to the extent of the reasonable value of that land on the reclamation charge against the remainder of the land of the landowner. However, credit shall not be allowed so as to entirely extinguish the reclamation charge against any land in the district, and land shall not be accepted by the district or credit allowed until a contract has been executed by the district and the federal government or some federal agency for development of the lands. [Formerly 545.174]

545.352 [Amended by 1995 c.42 §173; renumbered 545.671 in 1995]

545.354 [Amended by 1995 c.42 §174; renumbered 545.673 in 1995]

545.355 Proceedings on extension or cancellation of payments due federal government. When an irrigation district under contract with the United States has levied any assessment for collection of money payable to the United States under the contract, if the Secretary of the Interior has, by agreement with the board of directors of the district, authorized the extension or cancellation of any payments due the United States by the cancellation of assessments already levied but remaining unpaid, the board of directors shall certify to the tax collector of the county in which the land is located a statement of the year and amounts assessed against each tract for which cancellation has been authorized. The tax collector upon receipt of the certificates shall, if the assessment remains unpaid, indorse upon the district's assessment roll, "Corrected under certificate of board of directors," and deduct and cancel from the assessment against each tract the amount of the assessment authorized to be canceled. [Formerly 545.176; 1997 c.170 §51]

545.356 [Amended by 1995 c.42 §175; renumbered 545.675 in 1995]

545.358 [Amended by 1995 c.42 §176; renumbered 545.677 in 1995]

545.359 Contracts with federal government for flood control works. (1) When the board of directors of any irrigation district determines that it is for the best interest of the district that the flood waters of any stream that enters upon the district or whose waters are used in the irrigating of any of the lands in the district be controlled, the board may enter into a contract with the United States Government, or any of its agencies which may be empowered to construct flood works. The contract shall require the irrigation district:

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

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

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

(2) The contract shall not be binding upon the district until it has been approved by the legal voters of the district as provided by ORS 545.511 and 545.513 (1). When the contract has been so executed and approved the board shall carry out fully the provisions of the contract. [Formerly 545.178]

545.360 [Amended by 1995 c.42 §177; renumbered 545.679 in 1995]

SALE OF DISTRICT PROPERTY

545.365 Disposition of real property acquired by district; sale to member of board or employee prohibited. Any irrigation district foreclosing or otherwise acquiring any real property may lease, operate or sell the property upon such terms and taking such security for the rental or purchase price as the board of directors may consider advisable. A member of the board of directors or employee of the irrigation district shall not purchase or be interested in any contract for purchase of lands sold by the district. [Formerly 545.142]

545.367 Authorization of sale of property, excess water or hydroelectric power. When the board of directors of an irrigation district considers it to be for the best interests of the district to sell any property owned by the district and not required for district purposes, including excess storage or carrying capacity, surplus water or water rights, or to dispose by contract, lease or sale of any undeveloped hydroelectric power, the board shall adopt and enter in the minutes of its proceedings a resolution stating in substance:

(1) A general description of property to be sold.

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

(3) That the sale can be made without impairing the security of the outstanding bonds. [Formerly 545.144]

545.369 Release of lien of bonds; form; acknowledgment by bondholders; copy of release as evidence. The board of directors may then proceed to obtain releases of the lien of all outstanding bonds against the property it is proposed to sell. Release of the lien shall be in writing and acknowledged by the holders of the bonds in substantially the same manner and form as is required for a

conveyance of land. However, the notary or other officer taking the acknowledgment shall include in the certificate of acknowledgment, or in another appropriate certificate, the fact that the bonds described in the instrument were exhibited to the notary or other officer by the bondholder making the acknowledgment. The acknowledgment shall have the same force and effect as evidence as has the acknowledgment of a conveyance. The certificate of the officer taking the acknowledgment that the bonds were exhibited shall be conclusive evidence of the ownership of the bonds by the person executing and acknowledging the release. The acknowledged release shall be filed with the board and recorded in its minutes. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the original of the acknowledged release. [Formerly 545.146]

545.371 Consent of bondholders; notice requiring presentation of objections; implication of consent; hearing of objections by directors. The board may obtain constructive consent to the release of the lien of all outstanding bonds against property to be sold by publishing a notice describing the property to be released from the lien of outstanding bonds, and requiring all holders of bonds against the district to present in writing their dissent from or objection to release of the lien of all bonds against the property to be sold. The board shall publish the notice for at least four consecutive weeks in three newspapers published in Oregon. One of the newspapers must be a newspaper published in the county in which the office of the board is located, if such a newspaper exists. Any holders who fail to file objection or dissent within 90 days from the date of the first publication of the notice shall be considered to have released the lien of their bonds on the property. The board shall enter its order to the effect that, for the purpose of the sale, the lien of all such bonds has been released from the property to be sold. If any objection or dissent is filed within the time required by the notice, the board shall fix a time for a hearing on the objection or dissent and at the hearing shall determine whether or not the sale can be made without impairing the security of the bonds. If the board determines that the sale can be made, it shall enter its order to that effect and may proceed to sell the property. If the board determines that the sale cannot be made, it may postpone the sale until the objection is removed. [Formerly 545.148]

545.373 Proceeds of sale; special fund; uses of moneys. All proceeds from the sale of property owned by the district and subject to the lien of outstanding bonds shall be held in a special fund to be applied:

(1) First, to the construction or reconstruction of the drainage or other works of the district that are required by the United States as one of the conditions for the purchase of the property by the United States; and

(2) Second, as may be agreed between the district and the holders of the bonds, except that when the proceeds are applied to bonded indebtedness, the application shall be made to payment on the outstanding bonds as their interests may appear. [Formerly 545.150]

545.375 Purchaser rights; power of directors respecting contracts and instruments relating to transfer. (1) A sale of excess storage or carrying capacity or a sale of surplus water or water rights by the board shall not give the purchaser any prior or superior right in the water rights, water supplies, reservoir or irrigation works of the district over the rights retained by the district for lands within the district.

(2) If the contracts or instruments are considered advantageous to the district, the board may enter into contracts and execute instruments as may be necessary:

(a) To transfer property, including excess storage and carrying capacity and surplus water and water rights;

(b) To transfer the right to the use of the quantity of water sold;

(c) To transfer an interest in the reservoir and other irrigation works of the district; or

(d) For the joint management and operation of any or all of the works of the district.

(3) Property of the district that is the subject of a contract or instrument executed under this section must be released from the lien of outstanding bonds of the district prior to the execution of the contract or instrument. [Formerly 545.152]

CHARGES AND ASSESSMENTS

(Generally)

545.381 Annual assessments; computation of amount to be raised; apportionment; determination of acreage and assessments; credit for water rights. (1) On or before the first Tuesday in April of each year, the board of directors shall make a computation of the whole amount of money necessary to be raised by the district for the ensuing year for any purpose whatsoever in carrying out the Irrigation District Law, including estimated delinquencies on assessments. The board may provide for a reasonable maintenance and operation reserve fund. The amount determined by the board shall constitute an assessment upon all the land included in the district. The amount

determined by the board shall be apportioned by the board to the lands owned or held by each person so that each acre of irrigable land in the district shall be assessed and required to pay the same amount, except as otherwise provided in this section and ORS 545.385, 545.387, 545.389, 545.391 and 545.413.

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

(3) Until such time as the water rights appurtenant to any tract of land within an irrigation district are acquired by the district, the assessments against that land, except for operation, maintenance and drainage, shall be in the same proportion to a full assessment as the additional water right to be supplied to the tract bears to a full water right. For operation, maintenance and drainage, each irrigable acre in the district shall be assessed the same, except as otherwise provided in ORS 545.387, 545.389, 545.391 and 545.413. [Formerly 545.432; 2001 c.215 §19]

545.382 [Amended by 1991 c.459 §423b; 1995 c.42 §92; renumbered 545.399 in 1995]

545.384 [Amended by 1995 c.42 §93; renumbered 545.401 in 1995]

545.385 Certain lands may be assessed at different amounts; additional service charge. (1) Notwithstanding ORS 545.381 or 545.482 to 545.508, an irrigation district that assesses land in the district under ORS 545.381 or 545.482 to 545.508 may assess any land within the district to which the district furnishes or supplies water for irrigation purposes and which:

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

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

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

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

(2) The amount of the assessment on land described in subsection (1) of this section shall be an amount that the board determines to be just, taking into consideration the benefit to the land assessed and extra expenses, if any, of the landowner or holder in using such water. However, the amount may not exceed the amount assessed against irrigable acres lying below the level of the canals or ditches of the district.

(3) Notwithstanding ORS 545.381 or 545.482 to 545.508, an irrigation district which assesses land in the district under ORS 545.381 or 545.482 to 545.508 may assess a service charge, in addition to the regular assessment, against subdivided and small tract lands that have appurtenant water rights and to which irrigation water is furnished or is available for delivery. A service charge authorized by this section shall be assessed against lands only when delivery of water to these lands requires operation, construction and maintenance costs substantially greater than operation, construction and maintenance costs involved in delivering water to the majority of other lands in the district. All such small tract or subdivided lands shall be placed in groupings rounded up to the next whole acre, and each grouping shall be assessed as a single class. [Formerly 545.433]

545.387 Assessment on benefit basis; determination of benefits. After an affirmative vote at any regular or special election called or held under the Irrigation District Law, a district issuing bonds may proceed to levy and collect assessments for any purposes of the irrigation district on a benefit basis instead of on the basis of the number of irrigable acres. The valuation of lands for determination of benefits shall be made by three competent, disinterested viewers appointed by the governing body of the county. The viewers shall classify the lands included in each ownership or smallest legal subdivision and fix the assessments according to the productive value of water and land prepared to receive water. The assessments shall be determined without regard to permanent improvements, such as buildings or orchards. When fixing the amount of assessments, the viewers shall provide proper deductions for partial water rights appurtenant to any tract of land within the district not furnished by the district. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds. [Formerly 545.434]

545.389 Deduction for rights or property required by district; assessments pending construction. (1) In fixing the proportionate part of the cost of the reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights or other property or rights required by the district, may be deducted from the amount that the owner of the property or rights would otherwise be required to pay, and assessments for

payment of the cost of the reclamation, and interest thereon, may be made accordingly. Property and rights so acquired shall not be vested in the district until bonds have been disposed of or means otherwise provided for reclamation of the land in the district.

(2) Before completion of the project, the board may adjust the assessment so that the lands to which the district delivered water or could on demand have delivered water, during the preceding irrigation season, shall, in addition to their pro rata share of the remainder of the assessment, pay for the operation and maintenance of the constructed or partially constructed works through which the lands receive water. [Formerly 545.436]

545.391 Assessments for contracts with United States. (1) When a contract has been made with the United States, in addition to the amount determined and apportioned as provided in ORS 545.381, 545.385, 545.387 and 545.389, the board shall also fix the amount payable by each tract within the district, in accordance with the federal reclamation laws and the public notices, orders and regulations issued under the federal reclamation laws and in compliance with any contract made by the United States with the owners of the lands and with the contracts between the district and the United States. When the contract lands having a partial water right or partial rights in a system of irrigation, or irrigation and drainage, appurtenant to the lands, the amounts payable shall be according to the benefits to the lands, making due allowances for existing rights. The amounts so determined, fixed and apportioned shall constitute an assessment upon the lands of the district.

(2) In irrigation districts which enter into a contract with the United States providing for the payment of charges to the United States upon the basis authorized by the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes," annual levies of assessments for the purpose of making payment to the United States under the contract may be made by the board on the basis provided for in that Act and the contract, either before or after judicial confirmation of apportionment of benefits. In such districts annual levies for the purpose of making construction payments to the United States may be made on the basis of the gross average annual acre-income of the lands of the district or divisions of the district, or classes of lands in the district, as such gross average annual acre-income is determined by the Secretary of the Interior, until the amount apportioned against each tract has been fully paid. [Formerly 545.438]

545.393 Resolution concerning assessments for payment to United States; publication; collection by county officers. When an irrigation district has entered into a contract with the United States providing for payment to the United States under any federal reclamation law, the board of directors of the irrigation district, at any regular meeting that is not later than its meeting on the second Tuesday of September of any year, may enter a resolution fixing the date upon which computation shall be made of the necessary funds to be raised as provided in ORS 545.391 and the date when the board shall convene as a board of equalization. In the resolution, the board of directors may authorize the discounts that may be provided for in the contract between the district and the United States for payment of assessments in full on or before December 31 of the year in which the assessments are made. The board of directors shall make the levy of assessments in such amount that the discount can be allowed without reducing collections below the required amount. The resolution shall be published for two consecutive weeks in a newspaper in the county in which the office of the district is located. The resolution thereafter shall remain in full force and effect until revoked by the board. If the district does not collect its own assessments, the assessment shall be completed and the levy filed with the county assessor prior to November 30 of the year in which the assessment is made. After receipt of a certified copy of the resolution, the county officers charged with the collection of irrigation district assessments shall collect the assessments in accord with the provisions of the resolution. [Formerly 545.442]

545.395 Development of district by units; apportionment of assessments; inclusion of noncontiguous land; assessment of reclaimed or improved lands for district obligations. An irrigation district may provide for the reclamation, improvement or irrigation of the lands within the district in units. When a district does so, the assessments against the lands in the district may be apportioned by the board of directors to the lands owned or held by each person so that the lands in each unit shall pay the cost of reclaiming, improving, maintaining and operating the lands in the unit. Within the units the assessments shall be apportioned in accordance with ORS 545.381, 545.385, 545.387, 545.389, 545.391 and 545.413. Land noncontiguous to an irrigation district may be included in the district as a unit at the time of the organization of the district or at any subsequent time. Prior to the com-

pletion of the works for the reclamation of any units the lands in the units may be assessed as appears equitable to the board, subject to the rights of land owners in the district to have the assessments adjusted by the board of equalization and to appeal therefrom. However, all reclaimed or improved lands, whether irrigated or not, shall be subject to assessment for the payment of any obligation of the district. [Formerly 545.444; 1999 c.452 §25]

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

545.399 Contract with United States; annual assessments or direct billings. When an irrigation district has entered into any contract with any governmental agency of the United States for a loan under ORS 548.305 to 548.325, the board of directors of the district may levy annually assessments upon the lands in the district or bill the water users directly for the purpose of carrying out and complying with the terms and provisions of the contract. [Formerly 545.382]

545.401 Deposit of moneys in special fund; uses. All moneys realized from any assessments levied under ORS 545.399 shall be deposited by the treasurer of the district into a special fund, which shall be used solely for the purpose of carrying out and complying with the terms of the contract and the payment of installments of principal and interest falling due upon any bonds issued pursuant to the contract. [Formerly 545.384]

545.402 [Amended by 1995 c.42 §68; renumbered 545.315 in 1995]

545.404 [Amended by 1995 c.42 §69; renumbered 545.319 in 1995]

545.406 [Amended by 1995 c.42 §70; renumbered 545.323 in 1995]

545.408 [Amended by 1969 c.124 §1; 1995 c.42 §60; renumbered 545.287 in 1995]

545.410 [Amended by 1969 c.124 §2; 1995 c.42 §61; renumbered 545.291 in 1995]

545.412 [Amended by 1969 c.124 §3; 1995 c.42 §62; renumbered 545.293 in 1995]

(Assessment Procedure)

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

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

545.416 Equalization of assessment and apportionment of taxes; notice of time of meeting of board; public inspection of list. Not more than 30 nor less than 10 days before the annual date specified by the board of directors as provided in ORS 545.418, the secretary of the board shall give notice of the time the board, acting as a board of equalization, will meet for the purpose of reviewing and correcting its assessment and apportionment of taxes, as provided in ORS 545.418. The secretary of the board shall publish the notice at least once in a newspaper published in each county in which the district is situated. The board shall meet for this purpose on the date specified by the board as provided in ORS 545.418. In the meantime the assessment list and record shall remain in the office of the secretary of the board, for the inspection of all persons interested. All persons shall be presumed to have notice of the time of the meeting, whether they receive actual notice or not. [Formerly 545.448]

545.418 Meeting of board; duration; hearing and determination of objections to assessments and apportionment; changes. The board of directors shall meet annually on a date specified by the board as a board of equalization. As a board of equalization, the board of directors shall continue in session from day to day, as long as necessary, to hear and determine any objections by any interested persons to the assessments and apportionment of assessments made under the Irrigation District Law. The board of directors shall also hear and determine any other matters connected with assessments and their apportionment that may come before them. The board shall change its assessment and apportionment and the list and record of the assessment and apportionment in any respect and manner that may be necessary to make the assessment and apportionment just and in accordance with the facts. The secretary of the board of directors shall be present during sessions of the board of equalization, and shall note all changes made in the assessment, apportionments, lists and records and names of the persons whose property is listed. [Formerly 545.450]

545.420 Certification of assessments to county assessors; entry on assessment roll; collection of taxes; deposit of sums collected; disbursements from fund; taxation of state and federal lands. (1) After the board has completed its assessment, it shall certify the assessment to the county assessor of each county in which district lands are situated. The certificate shall be made in the manner provided in ORS 310.060. The county assessor shall enter the apportionment upon the county assessment roll against the property described in the certificate, in the same manner that other municipal assessments are entered by the county assessor. However, the sum apportioned to and charged for operation and maintenance and the sums apportioned for all other purposes shall be entered by the assessor separately on the assessment roll as the irrigation district taxes against the property.

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

(3) Any land, title to which is vested in the state, including lands segregated under the Carey Act or state lands sold under contract, in any irrigation district, shall be subject to taxation by the district. The full amount of assessments due against the lands shall be paid to the district before the same is sold, resold or contract for sale executed. The public lands of the United States within the district, whether entered or unentered, shall be subject to taxation under the Act of Congress of August 11, 1916. [Formerly 545.452]

545.422 Nonperformance by board; assessment, levy and equalization by county court. In case of neglect or refusal of the board of directors to have the assessment and levy made, the assessment and levy shall be made and equalized by the county court of the county in which the office of the board of directors is situated. The county court, while sitting for the transaction of county business, shall make the assessments and levy in the same manner that the court levies county taxes. An assessment and levy made by the county court shall have the same effect as an assessment and levy made by the board of directors. All expenses incident to an assessment and levy made by a county court under this section shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 545.420. [Formerly 545.454]

545.424 Validation of assessments; defective entry on assessment roll; lands partly outside district. When the assessments were made substantially in accordance with ORS 545.381, 545.385, 545.387, 545.389, 545.391 and 545.413, all assessments made before May 24, 1933, against real property within any irrigation district by the board of directors of the district are hereby validated. The assessments shall be a lien upon the real property described in the assessment, notwithstanding that the assessments were not entered on the county assessment roll against the property described as provided by ORS 545.420. Any assessment levied against lands partly within and partly outside the boundaries of any irrigation district shall not be void because the lands are partly outside the district, but shall constitute a valid assessment against that portion of the lands described in the assessment lying within the boundaries of the irrigation district. [Formerly 545.456]

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

545.428 Collection of assessments by board secretary; purpose; treatment of unpaid assessments. For the purpose of providing moneys for payment of the bonds of an irrigation district and interest on the bonds, the board, by resolution, may provide for the collection of its assessments from the irrigable land within the district and require the collection to be made by the secretary of the board. The board may direct the time and manner of making the collection and may require the assessments to be paid in advance of the delivery of water. Any charges or assessments remaining unpaid on any land within the district at the end of an irrigation season may be placed upon an assessment list in accordance with ORS 545.381 to 545.397 and 545.413 to 545.422. The charges and assessments shall constitute a lien upon the land and shall be collected as provided by ORS 545.420 and 545.422. [Formerly 545.522]

545.430 Objections by bondholders; payment from funds otherwise obtained. When any irrigation district provides for the collection of funds for the payment of bonds and bond interest in accordance with ORS

545.428, if thereafter any holder of bonds of the district objects in writing to that method of collection, the district shall pay the bonds from funds obtained in the manner provided in ORS 545.529, 545.532, 545.535 and 545.537. [Formerly 545.524]

545.432 [Amended by 1969 c.694 §30; 1995 c.42 §85; renumbered 545.381 in 1995]

545.433 [1955 c.36; §2; 1961 c.388 §1; 1989 c.182 §26; 1995 c.42 §86; renumbered 545.385 in 1995]

545.434 [Amended by 1989 c.182 §27; 1995 c.42 §87; renumbered 545.387 in 1995]

545.436 [Amended by 1995 c.42 §88; renumbered 545.389 in 1995]

545.438 [Amended by 1995 c.42 §89; renumbered 545.391 in 1995]

545.440 [Amended by 1995 c.42 §94; renumbered 545.413 in 1995]

545.442 [Amended by 1995 c.42 §90; renumbered 545.393 in 1995]

545.444 [Amended by 1989 c.182 §28; 1995 c.42 §91; renumbered 545.395 in 1995]

545.446 [Renumbered 545.397 in 1995]

545.448 [Amended by 1987 c.835 §2; 1995 c.42 §95; renumbered 545.416 in 1995]

545.450 [Amended by 1987 c.835 §3; 1995 c.42 §96; renumbered 545.418 in 1995]

545.452 [Amended by 1955 c.93 §1; 1973 c.305 §17; 1991 c.459 §424; 1995 c.42 §97; renumbered 545.420 in 1995]

545.454 [Amended by 1995 c.42 §98; renumbered 545.422 in 1995]

545.456 [Amended by 1995 c.42 §99; renumbered 545.424 in 1995]

545.458 [Renumbered 545.426 in 1995]

(Unpaid Assessments)

545.460 Withholding water while assessments are unpaid; accepting security for payment of assessments. The board of directors of an irrigation district may withhold delivery of water to any land within the district until such time as unpaid assessments appearing on the county tax rolls levied against the lands for any prior year, as the board may direct, are paid. A board of directors may accept promissory notes, chattel or real property mortgages or other security, as security for the payment of any delinquent assessments. [Amended by 1995 c.42 §102]

545.462 Cancellation or compromise of assessment liens on lands acquired by county for taxes. The board of directors of an irrigation district may cancel or compromise any liens for unpaid assessments of the district on lands which have been acquired for taxes by a county. [Amended by 1995 c.42 §103]

545.464 Order to tax collector to cancel or change liens; correction of delinquent tax rolls. When the board of directors considers it to be for the best interests of the district to compromise or cancel any unpaid assessments of the district on lands acquired by a county for taxes, the board shall make an order to the tax collector of the county in which the lands are situated to cancel or change the existing irrigation liens. Upon receipt of the order, the tax collector shall correct the delinquent tax rolls in accordance with the order of the board. [Amended by 1973 c.305 §18; 1995 c.42 §104]

545.466 Effect of ORS 545.462 and 545.464 on existing laws. ORS 545.462 and 545.464 do not repeal or amend any existing law relating to the manner of collection of unpaid irrigation district assessments. [Amended by 1995 c.42 §105]

(Exemptions)

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

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

(b) The water right appurtenant to the parcel has been transferred by the district to other land within the district under ORS 540.572 to 540.580, and the other land has been included in the district subject to the liens and charges or assessments of the district for the delivery of irrigation water.

(2) The owner of a parcel of land exempt from payment of charges or assessments under this section is not an elector of the district unless the owner qualifies as an elector through ownership of other land within the district. [1985 c.581 §4; 1991 c.957 §14; 1995 c.42 §106]

(Charges for Water Supply and Retirement of Warrants)

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

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

(3) In addition to the charges authorized under subsections (1) and (2) of this section, the board may pass on charges against individual water users when the district incurs charges, fees, fines or similar expenses for extraordinary services performed by the district at the request of the water user or that are incurred by reason of some action or failure to act by the water user. [Formerly 545.108; 1999 c.452 §26]

545.473 Districts providing for collection of charges by board secretary; levy of percentage of annual rates. Upon approval by the board of directors, an irrigation district that provides for collection of operation and maintenance charges by the secretary of the board in accordance with ORS 545.471, and that has outstanding operation and maintenance warrants that have been issued for more than one year, may levy a charge not to exceed 20 percent of the annual rates fixed for operation and maintenance. The charge shall be levied and collected for the purpose of retiring outstanding operation and maintenance warrants of the district. [Formerly 545.542]

545.475 Lands subject to assessment. An assessment made under ORS 545.475, 545.477 and 545.479 for the purpose of providing funds for the retirement of outstanding warrants shall be assessed against all the irrigable lands within and a part of the district. The assessment shall not be made as a part of the tolls or charges to be collected from lands lying outside the district. [Formerly 545.544]

545.477 Collection of charges; acceptance of district warrants; disposal of moneys collected. An irrigation district that levies any tolls or charges in accordance with this section, ORS 545.473, 545.475 and 545.479 for the purpose of retiring operation and maintenance warrants shall collect the charges in the same manner as the annual tolls and charges for operation and maintenance are collected, except that the district shall accept warrants of the district in payment of assessments made for the purpose of retiring warrants. Upon the receipt of any moneys levied for the purpose of retiring warrants, the secretary of the board shall immediately pay the moneys to the treasurer of the district, who shall place such moneys in an operation and maintenance fund. [Formerly 545.546]

545.479 Provisions not exclusive nor operative to relieve district of duty respecting obligations. ORS 545.473, 545.475 and 545.477 are not exclusive and do not relieve any irrigation district from the duty of levying sufficient sums for the payment of all outstanding obligations as otherwise provided by law. [Formerly 545.548]

ALTERNATIVE METHOD OF COLLECTING INCURRED CHARGES

545.482 Authorization of method for billing and collecting incurred charges. The board of directors, by resolution, may provide for the billing and collection of incurred charges of the district in the manner provided in ORS 545.482 to 545.508, in lieu of the method provided for in ORS 545.381 to 545.397, 545.413 to 545.422 and 545.683. A resolution under this section may be adopted either before or after the district has commenced to deliver water through all or any part of its canal or distribution system. If the consent of all the holders of outstanding bonds of the district has been obtained, the resolution may provide for the collection of incurred charges for the purpose of retiring bonds and payment of interest on the bonds, or any part of the bonds. [Amended by 1959 c.223 §1; 1987 c.694 §1; 1991 c.459 §423c; 1993 c.270 §70; 1995 c.42 §112; 2001 c.476 §1]

545.484 Computation of amount to be raised; apportionment of charges; fixing due date and delinquency date; fee for other services. (1) At least once in each year the board of directors of an irrigation district that has provided for the collection of its own incurred charges as provided by ORS 545.482 to 545.508, by resolution, shall make a computation of the total amount of money necessary to be raised by the district for the ensuing year for the purpose of carrying out the Irrigation District Law, including an allowance for delinquencies in collections. When making the computation, the board shall consider the amounts of money necessary for:

(a) The care, operation and maintenance of district facilities;

(b) Reasonable reserve funds for major maintenance, improvement and replacement of capital improvements and facilities;

(c) The acquisition of land or water rights;

(d) Bond or interest payments, or payments due or to become due to the United States or the State of Oregon under any contract of the district with the United States or the State of Oregon; or

(e) Other expenses of the district.

(2) The resolution shall fix the time when the incurred charge becomes due and payable. The resolution shall also fix a time, within one year after the date the incurred charge becomes due and payable, after which the incurred charge becomes delinquent.

(3) The amount determined by the board shall be apportioned by the board to the lands owned or held by each person so that each acre of land in the district that is entitled to irrigation is required to pay the same amount, except as otherwise provided in ORS 545.385, 545.387, 545.389, 545.391 and 545.487. Land owned by a person constituting a fractional portion of an acre may be rounded to the next higher whole acre.

(4) A district that provides drainage or other services to lands that are not entitled to irrigation services from the district may, at the discretion of the district's board of directors, charge a different fee for the provision of those services.

(5) The annual incurred charges established by the resolution shall continue in effect from year to year until changed by a resolution of the board of directors.

(6) A person is deemed to have requested water and other services and improvements provided by the district if the person signed a petition requesting the formation of an irrigation district under ORS 545.025, requested that the land of the person be included in the district pursuant to ORS 545.057 or paid an incurred charge on or before the delinquency date fixed by the resolution and the person has not:

(a) Excluded the land from the district pursuant to ORS 545.099;

(b) Transferred all water rights from the land pursuant to ORS 540.505 to 540.585 for the period of time that the incurred charge was incurred; or

(c) Otherwise requested that water and other services and improvements no longer be provided to the land.

(7) Notwithstanding subsection (3) of this section, if a person was denied approval to transfer all water rights from the land pursuant to ORS 540.523 or 540.530 or another provision for the period of time that the incurred charge was incurred, the district may assess an incurred charge against the person only if the incurred charge is based on the actual quantity of water used by the person. [Amended by 1987 c.694 §2; 1991 c.459 §423d; 1995 c.42 §113; 2001 c.476 §2]

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

545.487 Pressurization charge; application to certain lands; apportionment. (1) An irrigation district that charges for water delivery in the district under the provisions of ORS 545.482 may charge a pressurization charge, in addition to the regular charge. The pressurization charge may be charged against the lands that have appurtenant water rights and to which irrigation water is furnished or is available for delivery by pipe and under pressure. However, a pressurization charge may not be charged unless delivery of water by pipe and under pressure to these lands requires operation, construction and maintenance costs greater than the operation, construction and maintenance costs involved in delivering water to the nonpiped and nonpressurized lands in the district.

(2) The board may apportion a pressurization charge allowed under subsection (1) of this section to the water users of the lands served by pipe and pressurized water so that each acre of irrigable land in the district that has piped and pressurized water to it shall be required to pay the same per acre pressurization service charge. [1989 c.182 §2; 1991 c.459 §423e; 1995 c.42 §114]

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

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

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

545.494 Unpaid charge as lien on land; priority respecting other liens and claims. (1) If any incurred charge remains unpaid beyond the due date of the incurred charge, the secretary of the district may file a notice of claim of lien with the recording officer of the county of each county in which land is situated which received or was entitled to receive the benefit of the water delivery for which the incurred charge has been made. The notice of claim of lien shall be in writing and must contain:

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

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

(c) A description of the land which received or was entitled to receive the benefit of the water delivery sufficient for identification.

(2) Upon filing of the notice, the incurred charge and costs of filing and removing the notice shall become a lien upon all lands described in the notice in the amounts set forth opposite each tract of land. The lien shall be

prior to all encumbrances of whatever kind or nature, whether executed before or after the lien of the irrigation district is created, or whether recorded or registered or not. The lien of the irrigation district upon each tract of land shall be subject to all lawful taxes levied and assessed for state and county purposes by the county in which the land is located. The lien of the irrigation district shall not be subject or inferior to any claim, lien or assessment of any other taxing district, whenever levied, or whether extended on the county tax rolls for collection or not. [Amended by 1991 c.459 §423f; 1995 c.42 §115; 2001 c.476 §5]

545.496 Collection of incurred charges; withholding of water until payment; interest on unpaid charges. (1) Incurred charges under ORS 545.482, 545.484 and 545.494 shall be collected by the secretary of the district. The district may withhold delivery of water from any tract of land until the incurred charges for the current year and any prior years, including interest and lien and collection costs and fees, are paid in full.

(2) If an incurred charge, or any installment of an incurred charge, under ORS 545.482, 545.484 and 545.494 is not paid when due, interest shall be charged and collected on the incurred charge or installment at the rate of one and one-third percent per month, or fraction of a month, until paid.

(3) If a notice of claim of lien has been filed under ORS 545.494, the costs of the filing and any costs of removing the lien, including but not limited to recording and filing fees, title search fees and a reasonable administrative fee, shall be charged and collected. [Amended by 1981 c.71 §1; 1991 c.459 §423g; 1993 c.771 §16; 1995 c.42 §116; 1995 c.754 §8; 2001 c.476 §3]

545.498 Surety bond to be given by board secretary prior to handling district funds. Before handling or receiving any funds or collecting any incurred charges as provided in ORS 545.482 to 545.508, the secretary of the district shall give a good and sufficient surety bond by an authorized surety company, in an amount that the board of directors may determine. The cost of the bond shall be paid by the district. The bond shall be approved by the board and filed in the office of the district. The amount of the bond may be varied from time to time by order of the board. [Amended by 1991 c.459 §423h; 1995 c.42 §117; 2001 c.476 §6]

545.500 [Amended by 1991 c.459 §423i; 1995 c.42 §118; repealed by 2001 c.476 §11]

545.502 Foreclosure; procedure; attorney fees. (1) At any time after the delinquency date fixed by the resolution and upon the filing of the notice of claim of lien under ORS 545.494, the board by resolution may direct that all delinquent incurred charges then unpaid shall be foreclosed by the district. The foreclosure shall follow the general procedure of a suit in equity and be filed in the circuit court for the county in which the land to be foreclosed is situated. If land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands in that county. In addition to such incurred charges being foreclosed, the district may recover in the suit the costs and disbursements and expenses of foreclosure, including but not limited to recording and filing fees, title search fees, foreclosure reports and a reasonable administrative fee. Any number of tracts of land may be foreclosed in the same suit, without regard to whether they are delinquent for the same or different incurred charges, or for the same or several years. The judgment shall order the sale of the property, fix the time for holding the sale, which shall not be more than four weeks from the date of the judgment, and order the sheriff of the county to hold the sale in the same manner as other foreclosure sales. The sheriff shall give notice of the sale for two consecutive weeks prior to the day of sale by publication of notice once each week in a newspaper published in the county in which the land to be sold is situated. The sheriff shall also post notices in three public and conspicuous places within the county at least two weeks prior to the day of sale. The irrigation district may be a bidder and purchaser of the property at the sale. Upon sale of the property the sheriff shall issue deed to the property immediately. No right of redemption thereafter shall exist.

(2) The court may award reasonable attorney fees to the prevailing party in a foreclosure action under this section. [Amended by 1981 c.897 §61; 1991 c.459 §423j; 1993 c.771 §17; 1995 c.42 §119; 1995 c.618 §83; 2001 c.476 §4; 2003 c.576 §498]

545.504 Redemption of land upon or prior to foreclosure sale. At any time prior to sale, or at the time of sale, as provided by ORS 545.502, the former owner, incurred charge payer, or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and judgment may withdraw the tract of land from the foreclosure and sale by paying the amount of the lien foreclosed, together with the amount of state and county taxes that the irrigation district may have paid, and a proportionate amount of the costs incurred in the foreclosure proceeding. If the payment is to be made prior to the judgment, the payment shall be tendered to the clerk of the court, together with written appearance in the suit. If the payment is to be made after the judgment is entered, the payment shall be tendered to the sheriff ordered to hold the sale. If payment

is made before judgment, the tract shall be dismissed from the foreclosure proceeding. If payment is made after judgment, the district shall issue satisfaction of lien to the former owner, incurred charge payer, or holder of legal or equitable title or lien upon the tract, and file the satisfaction of lien for record. [Amended by 1991 c.459 §423k; 1995 c.42 §120; 2001 c.476 §7; 2003 c.576 §499]

545.506 Payment of taxes by district; amount paid added to lien. At any time after any incurred charge on a tract of land under ORS 545.482 to 545.508 becomes delinquent, the irrigation district may pay any state and county taxes that are due or delinquent on the tract of land and add the amount paid to the lien of the district against the tract. [Amended by 1991 c.459 §423L; 1995 c.42 §121; 2001 c.476 §8]

545.507 Borrowing for payment of operation and maintenance costs. When authorized by a resolution of its board of directors, an irrigation district whose board of directors has provided for the collection of incurred charges of the district in the manner provided in ORS 545.482 to 545.508 may:

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

(2) Issue and deliver as evidence of the indebtedness the promissory notes of the district bearing interest. The promissory notes shall be payable at such time as its board of directors shall determine and may contain provisions for payment of the attorney fees of the holder of the notes if suit or action is commenced for the collection of the notes. The district may agree that all or any part of the uncollected incurred charges shall be applied in payment of the promissory notes when collected. [1955 c.362 §2; 1989 c.182 §30; 1991 c.459 §423m; 1995 c.42 §122; 2001 c.476 §9]

545.508 Moneys collected; deposit; separation of funds; disbursements. Any irrigation district collecting incurred charges as provided in ORS 545.482 to 545.508 shall deposit all moneys collected in such banks as the board of directors may determine. The amounts collected for operation and maintenance, construction, bond principal, interest, or other purposes shall be kept in separate funds and accounted for separately. Moneys in the funds shall be paid out only upon order of the board by checks or drafts signed by the president and secretary of the board. [Amended by 1967 c.451 §24; 1991 c.459 §423n; 1995 c.42 §123; 2001 c.476 §10]

BONDS; CONTRACTS WITH STATE OR FEDERAL GOVERNMENT

(Authorization for Bonds or Contracts)

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

(a) Whether bonds in any amount the board may consider necessary shall be issued for any purpose necessary or convenient in carrying out the Irrigation District Law, including the refunding of outstanding bonds; or

(b) Except when an election is not required under ORS 545.513, whether the right to enter into an obligation or contract with the United States or the State of Oregon shall be authorized.

(2) Notice of the election must be given by posting notices in three public places in each election precinct in the district for at least 15 days prior to the election. Notice must also be given by publication of the notice in some newspaper published in the county in which the office of the board of directors is located. The notice shall be published in the newspaper once a week for at least four successive weeks prior to the election. For an election called to determine whether bonds will be issued, the notices must specify the time of holding the election and the amount of bonds to be issued. For an election called to determine whether a district will enter into an obligation or contract with the United States or the State of Oregon, the notices must specify the time of holding the election and, when bonds are not to be deposited, the maximum amount of money, exclusive of penalties and interest, payable to the United States or the State of Oregon for construction purposes or in the assumption of liability for district lands for construction purposes.

(3) The election shall be held and the result determined and declared in conformity as nearly as practicable with ORS 545.135 to 545.163. Informalities in conducting the election shall not invalidate the election, if the election has been otherwise fairly conducted. The ballot shall contain the words "Bonds—Yes" and "Bonds—No," or "Contract with the United States or the State of Oregon, as appropriate,—Yes" and "Contract with the United States or the State of Oregon, as appropriate,—No," or other equivalent words. If a majority of the votes cast are "Bonds—Yes," the board shall cause bonds in that amount to be issued, or such portion of the bonds as may be necessary from time to time. If a majority of the votes

cast are "Contract with the United States or the State of Oregon, as appropriate,—Yes," the board may negotiate and execute a contract with the United States or the State of Oregon. If the majority of the votes cast are "Bonds—No," or "Contract with the United States or the State of Oregon, as appropriate,—No," the result of the election shall be declared and entered of record. [Formerly 545.192]

545.513 Resubmission of questions to electors; contracts not requiring vote. (1) When, after an election called under ORS 545.511, the board considers it to be for the best interests of the district that the question of the issuance of bonds, or the question of a contract in any amount with the United States or the State of Oregon shall be submitted to the electors, the board shall so declare in its minutes, and may then submit the questions to the electors in the same manner and with the same effect as at the previous election. However, an irrigation district may, without a vote of its electorate, enter into a contract with the United States or the State of Oregon which does not create or increase a construction charge indebtedness and which, in the judgment of the district board, is for the best interest of the district.

(2) A district may, without a vote of the district electorate, enter into a contract with the United States or the State of Oregon for a loan in an amount that does not exceed the greater of $25,000 or one-third of the average annual operations and maintenance budget of the district for the three most recent years.

(3) If an emergency requires immediate repairs to the district delivery system to permit normal operation, the district may borrow moneys necessary for the repairs without a vote by the district electorate. [Formerly 545.194]

545.515 Bonds; interest included in authorized amount. When authorized by the electors, the bonds of a district may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds. [Formerly 545.196]

545.517 Bonds securing payments to United States. The contract provisions for the payment of construction charges to the United States may call for the payment of such interest, may provide for such installments and may provide for repayment of the principal at such times, as may be required by the federal laws and as may be agreed upon between the board and the Secretary of the Interior. If bonds of the district are issued and deposited for the purpose of securing payment of construction charges to the United States, the bonds may be of such denomination and may provide for the payment of such interest as may be required by the federal laws and as may be agreed upon between the board and the Secretary of the Interior. [Formerly 545.198]

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

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

(3) The board by resolution entered on its records may cancel any bonds of the district which have not been sold or deposited as security for funds advanced or to be advanced, and which the state, United States or any other person has no claim to or equity in. After the cancellation, the bonds shall not be sold or otherwise disposed of. After cancellation, the bonds shall be invalid and of no effect. The board may not replace bonds canceled under this subsection without authorization of the electors. [Formerly 545.202]

545.521 Bonds of districts organized before 1925 with indebtedness of $50,000; retirement of outstanding bonds as condition of further indebtedness; authorization and sale of refunding bonds; application of proceeds; redemption. (1) When an irrigation district organized prior to 1925 has an outstanding bonded debt in excess of $50,000, if no actual construction of irrigation works has commenced, the irrigation district shall not create a further bonded debt, except from the issuance of refunding bonds, until the bonds outstanding and bonds issued to refund the outstanding bonds have been called and redeemed, or further refunded as a part of new proceedings taken to finance the construction of irrigation works.

(2) The district may issue refunding bonds to redeem or replace any of its outstanding bonds. The bonds may bear interest at a rate not exceeding six percent each year. The district shall sell the refunding bonds for not less than par value, after notice published for at least two weeks in a newspaper printed and published within the county in which the district is located. The proceeds of the sale shall be applied in payment of matured or maturing bonds. If the district receives no qualifying bids for the refunding bonds they may be exchanged on a par-for-par basis for the matured or maturing bonds. The refunding bonds shall have serial maturity dates, not exceeding 20 years from issue date, as the board of directors shall specify. However, the board may issue the bonds with optional dates of redemption, and may provide for their calling and retirement upon such interest payment dates as

are indicated on the bonds. Notice of intention to redeem the bonds shall consist of a notice from the secretary of the district published within the county in which the district is located, or a direct notice from the secretary to the owner of the bonds, if known. The issuance of the refunding bonds shall not require an election of the voters of the district but shall be done by resolution of the board of directors. [Formerly 545.218]

545.522 [Amended by 1969 c.694 §31; 1991 c.459 §423o; 1995 c.42 §100; renumbered 545.428 in 1995]

545.524 [Amended by 1969 c.694 §32; 1995 c.42 §101; renumbered 545.430 in 1995]

545.526 [Repealed by 1969 c.345 §20]

(Bonds and Contracts as General Obligations)

545.529 Bonds and payments payable from assessments; liability of lands. The bonds and the interest thereon and all payments due to the United States or the State of Oregon under any contract between the district and the United States or the State of Oregon, for which bonds of the district have not been deposited with the United States or the State of Oregon, and all obligations for the payment of money authorized and incurred under the Irrigation District Law, shall be general obligations of the district and shall be paid by the revenue derived from the annual assessments upon the land in the district. All the lands in the district shall be and remain liable to be assessed for such payments as provided in the Irrigation District Law. [Formerly 545.204]

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

545.532 Increase of assessments to meet defaults; property liable for indebtedness; possession of works upon default. When the amount assessed against any tract of land is not paid, the next assessment against the land in the district shall be increased so as to take care of the default. All the property of the district, including irrigation and other works, shall be liable for the indebtedness of the district. The holder of bonds, or the United States or the State of Oregon when a contract has been executed by the United States or the State of Oregon, may, if a default occurs in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the irrigation and other works of the district and operate those works until the amount in default is fully paid. [Formerly 545.206]

(Payment of Assessments for Bonds and Contract Obligations)

545.535 Lien against assessed lands; priority. Any assessment upon land shall be a lien against the property assessed. The lien for all payments due under any contract with the United States or the State of Oregon or for the payment of principal or interest of bonds deposited with the United States or the State of Oregon shall be a preferred lien to any assessments for bonds issued subsequent to the date of the contract or the issuance of the bonds deposited with the United States or the State of Oregon. A district assessment lien shall not be removed until the assessments are paid with interest and penalties or the property sold for the payment of the assessments, together with interest and penalties. [Formerly 545.208]

545.537 Sale of lands for delinquency; purchase by district. The district shall appear as a bidder at the sale of any lands for delinquent assessments or taxes. The district may purchase and take title to the lands and dispose of the lands like any other purchaser. When at a tax sale there is no other bid for the full amount of the delinquencies, including interest and penalties, the district shall bid and buy in the land to protect its assessments. However, the district shall never bid or pay a greater sum than the total of all delinquent assessments and taxes against the land plus interest and penalties. When purchasing any land at a tax sale, the district shall pay cash for all assessments, taxes, interest and penalties, including the district assessments. Such expenditures shall be deemed operating expenses of the district and may be assessed as maintenance charges. [Formerly 545.210]

545.539 Bond sinking funds; other funds. (1) The district treasurer or the county treasurer of the principal county, as defined in ORS 198.705, if designated in the bonds, shall keep a "Bond Fund," a "United States or the State of Oregon (as appropriate) Contract Fund" or a "Bond and United States or the State of Oregon (as appropriate) Contract Fund." All money arising from the sale of refunding bonds and from assessments and levies shall be deposited in the appropriate fund until there is sufficient money in the fund to meet the next installment of principal and interest upon bonds of the district and to meet all payments due to the United States or the State of Oregon for construction and other purposes. From the appropriate fund the district treasurer or the county treasurer shall pay money due as principal and interest on bonds as they mature and the bonds and coupons are presented and shall make payments to the

United States or the State of Oregon when due.

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

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

(4) Each fund listed in subsection (1) of this section shall be used for payment of the obligations of the district that are payable from that fund in the order of the priority of the creation of the obligations. [Formerly 545.212]

545.541 Retirement of bonds prior to maturity; call provisions. (1) If, after 10 years from the issuance of bonds, the appropriate fund amounts to $10,000, the board of directors may direct the district treasurer or county treasurer of the principal county, as defined in ORS 198.705, if designated in the bonds, to pay that amount of the bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or the board may call bonds at a premium of three percent, as provided in subsection (2) of this section.

(2) The board may call for payment and retire before maturity any bonds issued in accordance with ORS 545.511, 545.513, 545.515, 545.517 and 545.519, by paying principal and accrued interest and a premium of three percent upon the principal. Notice of intention to do so shall be given by publication in a newspaper published and regularly circulated in the county in which the district lands are situated. The notice shall be printed at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, the price to be paid, the date of payment and the place where payment is to be made. Bonds shall be retired in numerical order in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form. Bonds shall not be retired under this section except on a day when interest is payable by the terms of the bonds and on and after the date named in the notice. Interest on bonds described in the notice shall cease after the date named in the notice.

(3) Notwithstanding anything contained in this section, the board may issue bonds with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board in the bonds, upon giving notice of the redemption in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form. [Formerly 545.214; 1997 c.171 §20]

545.542 [Amended by 1995 c.42 §108; renumbered 545.473 in 1995]

545.544 [Amended by 1995 c.42 §109; renumbered 545.475 in 1995]

545.545 Determination of liability of individual tracts for bonded indebtedness; acceptance of bonds and cash in payment. (1) Upon application by any owner of a tract of land within the district, the board of directors of any irrigation district may determine the proportionate part of the liability of the tract for assessment in payment of the outstanding bonded indebtedness. In determining the amount of liability, the board shall take the total amount of bonds outstanding and divide this sum by the total irrigable acres and multiply the quotient by the total irrigable acres in the tract. In any district in which the cost has been divided into units, the board shall determine the proportionate amount of liability in the same manner, using the total amount of bonded indebtedness apportioned to the unit and the irrigable area in the unit. After determining the total apportioned part of the liability of any tract for the payment of bonded indebtedness, the board of directors may accept the bonds of the district in payment of the total amount of the liability of the tract of land within the district. However, in addition to the bonds, a cash payment of not less than five percent of the total amount of liability on the tract shall be tendered and paid to the district at the time of delivery of the bonds.

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

(3) Any additional cash payment collected by the board under subsection (1) of this section shall be deposited with the treasurer of the district and placed in a separate fund, which shall be used only for the retirement of bonds. [Formerly 545.216]

545.546 [Amended by 1995 c.42 §110; renumbered 545.477 in 1995]

545.548 [Amended by 1995 c.42 §111; renumbered 545.479 in 1995]

(Issuance of Bonds by Certain Districts)

545.551 Application of ORS 545.553 and 545.555. ORS 545.553 and 545.555 apply to an election to authorize the issuance of bonds by a district formed pursuant to a petition filed under ORS 545.025 (7). [Formerly 545.228]

545.553 Petition for election on authorization and issuance of bonds. When a petition requesting an election is filed with the board of directors, if the petition is signed by all of the owners of all lands within the district, an election shall be held to determine whether bonds of an irrigation district shall be authorized and issued as provided by this section and ORS 545.551, 545.555, 545.557 and 545.559. The petition shall state the amount of bonds to be authorized, the purposes for which the bonds are to be issued and the maximum time in which they may mature. Upon the filing of a petition under this section, the board shall proceed to call an election which shall be held within 20 days after the filing of the petition. [Formerly 545.230]

545.555 Holding election; notice. The election called pursuant to a petition filed under ORS 545.553 shall be held and the results determined and declared as provided by ORS 545.511 and 545.513 (1), except that:

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

(2) The notice of the election need not be posted but must be published at least once, not more than 10 or less than three days prior to the election; and

(3) The form of the proposition on the ballot shall be set forth in the notice of the election. [Formerly 545.232]

545.557 Bonds; maturities; reserves; interest; trustees. (1) The Irrigation District Law applies to bonds authorized under ORS 545.553 and 545.555, except as otherwise provided by this section.

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

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

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

(c) For the issuance, under proper terms and conditions, of additional or refunding bonds on a parity with the bonds being issued;

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

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

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

(4) The board may select a trustee for the owners and holders of the bonds, and also a trustee to safeguard and disburse the proceeds of the sale of the bonds. The rights, duties, powers and obligations of the trustee or trustees shall be fixed by the board. [Formerly 545.234]

545.559 Bonds and coupons to be negotiable instruments. Any bearer bonds and the coupons attached thereto issued under ORS 545.557 are fully negotiable instruments under the laws of the State of Oregon. [Formerly 545.236]

545.562 [Amended by 1955 c.360 §1; 1995 c.42 §178; renumbered 545.683 in 1995]

545.563 [1955 c.286 §2; 1995 c.42 §179; renumbered 545.685 in 1995]

545.564 [Repealed by 1995 c.42 §184]

ALTERNATIVE METHOD OF ISSUING BONDS

545.565 Refunding bonds; procedure. Any irrigation district desiring to refund its outstanding indebtedness or issue bonds for any purpose may use the procedure provided by ORS 545.565 to 545.621 instead of other procedures provided by law. Before any decision is made to issue bonds under those sections the board of directors shall enter a resolution stating the purpose for which the bonds are to be issued and, if the bonds are to be used for refunding indebtedness, describing the bonds and indebtedness to be retired by the refunding bonds or from the proceeds of the sale of the refunding bonds. [Formerly 545.242]

545.567 Determination of liability for assessment to pay bonds; determination on basis of irrigable area or benefits accrued. After bonds have been authorized under ORS 545.565 to 545.621 but before they are offered for sale, the board of directors shall make a preliminary determination of the area and description of irrigable land in each legal subdivision or other described tract if held in separate ownership within the district. The board shall also make a preliminary determination of the proportion-

ate share or liability of each tract for assessment in payment of the total amount of the bonds issued. The determinations shall be for the purpose of fixing the irrigable area or, if the assessment is based on benefits, the total benefits accruing from the existing or proposed improvement to each ownership and tract, and of fixing the assessment in proportion to the benefits or irrigable area. The determination of benefits or irrigable area shall include a description of the land, name of the ownership, number or irrigable acres of each tract, proposed assessment against each tract, and such other data as may be necessary to identify the land and ownership. [Formerly 545.244]

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

545.571 Notice of determination; publication; contents. The board of directors shall give notice by publication of the preliminary determination provided for in ORS 545.567, once a week for four successive weeks in a newspaper published in each county in which the district lands are situated. The board shall also post a notice in three public places in the district at least 30 days prior to the date of hearing. The notice shall state:

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

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

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

(4) That upon conclusion of the hearing the board will by resolution determine the proper assessment to be charged against each legal subdivision or other described tract if held in separate ownership and the total benefit accruing from the existing or proposed improvement to each legal subdivision or other described tract, but will exclude from the determination of benefits any benefits to accrue from the future operation and maintenance of the improvement. [Formerly 545.248]

545.573 Equalization of assessments; hearings. The board of directors shall sit as a board of equalization at the time and place stated in the notice, and shall continue in session from day to day as long as may be necessary to hear and determine any objections, remonstrances or suggestions by any interested persons to the proposed assessment and apportionment or to the proposed determination of the total benefits accruing to a legal subdivision or other described tract. The board shall change its assessments and apportionment or determination of the total benefits accruing as the board considers necessary and proper so as to make the assessments, apportionment and determination of benefits legal, just and in accordance with the facts. The secretary of the board shall be present during these sessions and shall note all changes made in the assessments or determination of total benefits. [Formerly 545.250]

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

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

(a) The lands assessed;

(b) The name of the record owner of the lands assessed;

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

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

(e) The rate of interest the assessment shall bear;

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

(g) The amount of benefit surplus; and

(h) Any other matters that are pertinent, necessary or considered expedient by the board of directors.

(3) As used in subsection (2) of this section, "benefit surplus" means the excess of the benefits accruing to each legal subdivi-

sion or other described tract, over and above the assessment against each.

(4) An error in the name of the owner of record described in an order entered under subsection (1) of this section shall not affect the validity of an assessment. [Formerly 545.252]

545.577 Notice of proceedings; appeal to circuit court; notice and summons. (1) All persons interested in any lands within the district shall be charged with notice of all proceedings at the hearing and proceedings subsequent to the hearing. Any person or landowner aggrieved by the action of the board of directors may within 30 days from the entry of the resolution appeal to the circuit court of the county in which the lands of the district are situated. If the district is situated in two or more counties and an appeal is taken to the circuit court of each county, then all appeals shall be consolidated in one action. If the counties are situated in more than one judicial district, the presiding judge of the Court of Appeals shall determine the judicial district in which the appeal shall be tried. The appeals shall be taken by giving a notice in writing and leaving a true copy of the notice with the secretary of the irrigation district.

(2) Upon the expiration of the time for service and filing of notices of appeal to the circuit court, if no appeal is taken from the resolution of the board, the resolution becomes final. If an appeal is taken, the circuit judge of the county in which the appeal is to be heard shall make an order directing the trial court administrator to have published once a week for four consecutive weeks in each county in which the lands in the district are situated, a notice and summons reading substantially as follows:

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

All persons owning or claiming to own any lands within the above named irrigation district are notified that appeal has been made to the above entitled court from the resolution made and entered by the board of directors of the irrigation district on the ____ day of _____, 2____, in which an assessment was made against certain lands in the district and described in the resolution together with a determination of the benefits accruing to the lands, and that bonds may be issued in the sum of ____ by the district. All persons owning lands within the district affected by the assessment or bonds are required to appear before this court on or before the ____ day of _____, 2____, and show cause, if any, why the assessment or determination of benefits should not be approved and the bonds not issued.

_____
Trial Court Administrator
for _____ County.

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(3) The date required for appearance in the cause shall be a date to be fixed by the court, adjudged reasonable, and not less than 30 days from the date of the first publication of the notice. The proceeding shall be a proceeding in rem. All persons owning or claiming any interest in lands in the irrigation district shall appear and show cause why the assessment or determination of benefits should not be ratified and approved, and shall be bound by all subsequent judgments and orders made in the cause, without further notice. [Formerly 545.254; 1997 c.801 §130; 2003 c.576 §500]

545.579 Pleadings; trial; appeal; finality of assessment order. (1) The appellant and all persons appearing shall make a statement in writing of the grounds of appeal, and no further pleadings shall be necessary. The cause shall be tried in one action by the circuit court as an action not triable by right to a jury.

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

(3) If the resolution of the board of directors is affirmed it shall be considered an assessment against all the lands described in the resolution for the amount of the assessment and payable at the times specified in the resolution, as well as a final determination of the total benefits accruing from the existing or proposed improvements to the parcels of land described in the resolution. If the resolution is modified in any respect, the court shall specify the proper resolution to be entered, which shall be entered accordingly. If no appeal is taken from the resolution, it shall become final. [Formerly 545.256; 2003 c.576 §256]

545.581 Assessment installments. When amortizing bonds are issued as authorized by ORS 545.585, the installments in which the assessments are to be paid shall be in fixed amounts including both principal

and interest, and only the principal portions of the installments shall be charged against total benefits in determining benefit surplus, as defined in ORS 545.575. [Formerly 545.258]

545.582 [Amended by 1995 c.42 §10; 1995 c.78 §2; renumbered 545.051 in 1995]

545.584 [Amended by 1995 c.42 §11; renumbered 545.057 in 1995]

545.585 Bonds; issuance; purposes; form; amortization; maturities; negotiability; numbering; interest; denomination; registration; amount maturing annually; retirement. (1) When the assessments have become final, the board of directors may authorize the issuance of bonds for the construction or acquisition of irrigation works or to refund the indebtedness of the district, including warrant indebtedness, bond indebtedness and interest certificates of indebtedness issued to the state. The bonds may be issued either in serial form or in a form providing for the annual payment of interest and principal in a single amount represented by coupons. However, the amortization of both interest and principal on the refunding bonds must be accomplished within the 50-year period immediately following the date of issue. All refunding bonds issued under ORS 545.565 to 545.621 shall be negotiable in form. If in serial form the bonds issued shall be numbered consecutively, commencing with number 1. The bonds shall mature serially in annual amounts so as to be approximately equal, principal and interest, in not less than five years nor more than 50 years after date of issue, as the board of directors determines. If the board of directors considers it advisable to submit the question of maturities at the bond election, then the bond shall mature as the electors determine.

(2) The bonds shall bear interest at a rate determined by the board of directors, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons which may be the office of the county treasurer of the principal county, as defined in ORS 198.705. Except as otherwise provided by ORS 545.565 to 545.621, each of the bonds shall be in a denomination of not less than $100 or more than $1,000; shall be signed by the president and secretary; shall have the seal of the board of directors affixed to the bond; and shall bear on the back the registration certificate of the county treasurer, who shall sign as county treasurer and as ex officio treasurer of the district. Coupons for interest shall be attached to each bond and shall be signed with the engraved facsimile signature of the secretary.

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

(4) The total sum of bonds maturing in any one year, together with the interest due, shall not exceed the total of the maximum annual assessment for the retirement of the bonds and the payment of interest. Upon payment of the principal, the board of directors may call for payment and retire before maturity any bond issued in accordance with ORS 545.565 to 545.621. [Formerly 545.260]

545.586 [Amended by 1995 c.42 §12; renumbered 545.059 in 1995]

545.588 [Amended by 1995 c.42 §13; renumbered 545.061 in 1995]

545.589 Recording of assessments; bond lien docket; payment by bonds or coupons; interest on unpaid assessments; lien on land; priority. (1) Upon delivery of the bonds, the secretary of the irrigation district shall furnish to the county clerk of each county in which lands of the district are situated, a duly certified copy of the resolution of assessment. The resolution shall be promptly recorded in the records of deeds of the county. The county clerk shall provide a book, which shall be considered a bond lien docket of the irrigation district for the lands situated in that county, for the purpose of recording in the book the matters contained in the resolution, by setting forth, in separate columns, the description of the lands assessed, the total amount of the assessment, the yearly installments, when the installments become due, the rate of interest the installments shall bear, the amount of the total benefit which shall accrue to each legal subdivision or other described tract if held in separate ownership, and the amount of the benefit surplus, as defined in ORS 545.575, accruing to each legal subdivision or other described tract.

(2) The bond lien docket shall thereafter be a docket of liens and shall constitute the total assessment against the lands by reason of the bonds. The sum shall not be increased or added to by subsequent assessments because of any delinquency of the owner of any other tract or parcel of land in the payment of the assessment of the owner, except as provided in ORS 545.599. The bond lien docket shall also thereafter be conclusive evidence of the total benefits accruing to each legal subdivision or other described

tract held in separate ownership, by reason of the improvement.

(3) The tax collector shall receive any past-due bond of the irrigation district or any past-due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying any installment that is due or past due and that appears on the bond lien docket. All unpaid assessments entered in the bond lien docket except installments designed for the payment of amortizing bonds shall bear interest at the rate of six percent per annum until the assessments and interest are paid. All unpaid assessments and interest shall remain a lien on each tract or parcel of land in favor of the irrigation district, and shall have priority over all other liens and encumbrances, except the liens of state, county and municipal taxes. [Formerly 545.262]

545.590 [Amended by 1959 c.276 §5; 1995 c.42 §14; renumbered 545.067 in 1995]

545.592 [Amended by 1995 c.42 §15; renumbered 545.071 in 1995]

545.593 [1959 c.276 §4; 1991 c.459 §423p; 1995 c.42 §16; renumbered 545.075 in 1995]

545.594 [Amended by 1995 c.42 §17; renumbered 545.079 in 1995]

545.595 Payment of assessment; relief from further assessment. At any time after issuance of the bonds, a landowner may relieve the land of the landowner from payment of the principal and interest assessed against the landowner by securing from the county clerk, on a form to be provided by the county clerk for that purpose, a certificate showing the lands assessed and the amount due. The certificate shall be signed and certified by the clerk under the seal of office. Upon its presentation to the county treasurer and payment to the county treasurer of the amount due, either in cash or matured or unmatured bonds of the district, the treasurer shall, on the certificate, mark the amount as paid. Upon presentation by the owner of the certificate so receipted to the county clerk, the clerk shall insert in a column of the bond lien docket provided for that purpose, a notation showing the payment and satisfaction of the assessment in full with interest. Upon such payment of the assessment on any tract or parcel of land, the tract or parcel shall thereafter forever be relieved from assessment for the payment of irrigation bonds issued prior to the date of the payment, except for an assessment that may be levied by the board of directors of the irrigation district for an emergency fund, not exceeding the amount specified in ORS 545.599. [Formerly 545.264]

545.596 [Amended by 1995 c.42 §18; renumbered 545.085 in 1995]

545.598 [Amended by 1995 c.42 §19; renumbered 545.089 in 1995]

545.599 Five-year additional assessment; emergency assessments; emergency fund. (1) In addition to the assessments provided for in ORS 545.565 to 545.589, the board of directors, during the first five years after the determination of assessments, shall levy against each legal subdivision or other tract if held in separate ownership within the district, as set forth in the bond lien docket, an annual assessment in an amount equal to 25 percent of the regular yearly installment of the assessment for principal and interest.

(2) Following the five-year period described in subsection (1) of this section, if there is any default in the payment of any assessment levied by the district, the board shall levy against each legal subdivision or other described tract of land held in separate ownership within the district, an assessment in an amount not to exceed 25 percent of the regular yearly installment of the assessment for principal and interest for that year, as shown in the bond lien docket. The latter assessment shall be known as the "Emergency Assessment," and shall be levied and collected at the time provided in ORS 545.381 to 545.397 and 545.413 to 545.422. All moneys received from the emergency assessment shall be placed by the county treasurer in a special fund to be known as the "Emergency Fund."

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

(4) The emergency assessment shall be levied against each legal subdivision or other described tract of land held in separate ownership within the district as shown on the bond lien docket, even though the subdivision or tract is relieved from assessment for the payment of irrigation bonds in accordance with ORS 545.595. The amount of the emergency assessment for any year levied against a legal subdivision or other tract of land shall not exceed 25 percent of the amount of the assessment for that year levied against that legal subdivision or other tract of land for bond interest and principal, or which would have been levied against that legal subdivision or tract of land for those purposes if the land were not relieved from assessments under ORS 545.595. The aggregate net amount of assessments levied against a legal subdivision or other tract exceed the benefit surplus of the legal subdivision or other tract as shown by the bond lien docket. The net amount of every assessment shall be determined by discounting the

amount levied at the rate of six percent per annum for the time that has elapsed between the date of the final resolution determining total benefits and the date of the levy of the assessment.

(5) The net amount of all assessments levied against a legal subdivision or other tract under this section shall be duly entered in an appropriate column in the bond lien docket, and each net amount when paid shall be deducted from the amount of the benefit surplus or balance thereof of the legal subdivision or other tract affected. [Formerly 545.266; 1997 c.170 §52]

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

545.602 [Amended by 1993 c.392 §2; 1995 c.42 §20; renumbered 545.097 in 1995]

545.603 Entry on assessment roll; lien on land; collection; disposal of moneys collected; liability of land sold for taxes; exception. Not later than December 1 of each year, the county clerk shall furnish to the county assessor a copy of all assessments shown on the bond lien docket that were levied against property within the irrigation district in the county of the county clerk and that shall become due and payable during the coming calendar year. The assessor shall enter the assessments on the assessment roll in the same manner as other assessments of the district are entered. The assessments so entered shall continue as a lien against the tracts and parcels of land described in the assessment roll and shall be collected in the same manner and at the same time that other taxes are collected. If unpaid, the procedure for the collection of the assessments shall be the same as that provided by law for the collection of irrigation taxes and assessments. Except as otherwise provided by law, all moneys paid to the county treasurer on any assessments levied under ORS 545.565 to 545.621, and all moneys collected by the tax collector in any county on such assessments, shall be paid to the county treasurer and kept by the county treasurer in a special bond fund for the payment of the principal and interest on bonds as the bonds become due. The purchaser of any tracts or parcels of land at a sale for any delinquent state, county or municipal taxes, or irrigation assessments, shall take the tracts or parcels free and clear of any assessment that has been entered upon the assessment roll under this section and that has been included in the amount for which the tract was sold. However, the lien of the portion of the assessment created by ORS 545.589 that has not been so entered and included shall not in any manner be affected by the sale, and every purchaser shall take the lands subject to that lien. [Formerly 545.268]

545.604 [Amended by 1993 c.392 §3; 1995 c.42 §21; 1995 c.78 §3; renumbered 545.099 in 1995]

545.606 [Repealed by 1993 c.392 §6]

545.607 Retirement of bonds before maturity. (1) Notwithstanding ORS 545.565 to 545.621, the board of directors of an irrigation district may call for payment and retire before maturity any bonds issued in accordance with ORS 545.565 to 545.621. If sufficient funds are available for the purpose in the special bond fund, the board may direct the treasurer to pay that amount of bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or the board may call bonds for par. The par value of all amortization bonds shall be considered to be the present worth of the unpaid installments on the bonds, discounted to the date they are called at the rate of seven percent per annum. Payment may be made at the office of the county treasurer of the principal county, as defined in ORS 198.705.

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

(3) The bonds so called shall be retired in numerical order and not otherwise. A bond shall not be retired under this section except on a day when interest is payable under the terms of the bond and on and after the date given in the published notice. The interest on bonds described in the notice shall cease after the date named in the published notice, and the notice is published as provided by subsection (2) of this section. [Formerly 545.270]

545.608 [Repealed by 1993 c.392 §6]

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

545.611 [1975 c.293 §2; 1993 c.392 §4; 1995 c.42 §22; renumbered 545.101 in 1995]

545.612 [Amended by 1995 c.42 §23; renumbered 545.105 in 1995]

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

545.614 [Amended by 1995 c.42 §24; renumbered 545.109 in 1995]

545.615 [1965 c.576 §3; 1991 c.459 §423r; 1995 c.42 §25; renumbered 545.113 in 1995]

545.616 [Amended by 1993 c.392 §5; 1995 c.42 §26; renumbered 545.117 in 1995]

545.617 Sale of land for delinquent assessments; district as purchaser; payment of proceeds into emergency fund;

purchase price paid by district. The district shall appear as a bidder at the sale of any lands for delinquent assessments made under ORS 545.565 to 545.621, and may purchase and take title to the lands and dispose of them like any other purchaser. On any sale by the district, the proceeds from the sale, after the payment of expenses of the sale, shall be paid into the emergency fund. When at a tax sale there is no other bidder for the full amount of the delinquency, including interest and penalties, the district shall bid and buy in the land to protect its assessments. However, the district shall never bid or pay a greater sum than the total of all assessments levied under ORS 545.565 to 545.621 with interest and penalties, and delinquent general taxes. [Formerly 545.272]

545.618 [Amended by 1995 c.42 §27; renumbered 545.123 in 1995]

545.620 [Amended by 1975 c.72 §3; 1995 c.42 §28; renumbered 545.126 in 1995]

545.621 Exchange of refunding bonds for outstanding indebtedness; exchange of interest certificates for bonds. When proceeding under ORS 545.565 to 545.621, the board of directors of any irrigation district that desires to issue refunding bonds in a satisfaction or discharge of any outstanding indebtedness or to replace outstanding indebtedness, may, instead of retiring the outstanding indebtedness from the proceeds of the sale of the bonds, exchange the refunding bonds for the outstanding indebtedness and in full compromise, satisfaction and discharge of the outstanding indebtedness. The board of directors shall issue the bonds in such denominations and to the several holders of the outstanding indebtedness as may be found necessary and expedient in the retirement of the outstanding indebtedness. The State Treasurer, on behalf of the state, may negotiate and arrange terms for exchange of interest certificates of indebtedness issued to the state by the district for district refunding bonds on the same terms as those bonds are accepted by other creditors. [Formerly 545.274]

545.622 [Amended by 1995 c.42 §29; renumbered 545.131 in 1995]

545.624 [Amended by 1985 c.581 §2; 1995 c.42 §39; renumbered 545.167 in 1995]

545.625 [Formerly 545.276; repealed by 1999 c.452 §30]

545.626 [Amended by 1995 c.42 §40; renumbered 545.169 in 1995]

545.628 [Amended by 1995 c.42 §41; renumbered 545.171 in 1995]

545.629 Declaration of intent to dispose of bonds; resolution; notice of sale; publication. Before selling or otherwise disposing of any bonds as provided for in ORS 545.565 to 545.621, the board of directors by resolution shall declare at a meeting its intention of selling or otherwise disposing of the bonds. The board of directors shall cause the resolution to be entered on the minutes of the meeting. The board shall also cause notice of the sale or other disposition to be given by publication at least once a week for four consecutive weeks in three newspapers published in Oregon. One of the three newspapers shall be a newspaper published in the county in which the office of the board of directors is situated. [Formerly 545.278]

545.631 Consent of creditors to refunding of indebtedness. (1) Before authorizing the issuance of bonds under ORS 545.565 to 545.621, the board of directors shall require that the known holders or their representatives of not less than 80 percent of the total amount of all evidences of indebtedness, whether warrants, bonds or certificates that are to be retired or refunded, shall submit to the board of directors for its acceptance an offer:

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

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

(2) The offer shall be in writing and when submitted to the board of directors and accepted by the board, the offer shall be irrevocable until after the board of directors has had the opportunity to authorize the issuance, sale and delivery of refunding bonds to replace and discharge the outstanding indebtedness. Any litigation that is intended to or will restrain or prevent the board of directors from issuing and delivering the refunding bonds shall not subject the offer to revocation until after the litigation is concluded and the board of directors has a reasonable time thereafter in which to issue, sell and deliver the refunding bonds. The offer shall be considered accepted by the board of directors upon delivery of the offer to the board. [Formerly 545.280]

545.633 Obtaining constructive consent of unknown or dissenting creditors; petition. For the purpose of obtaining the constructive consent of the unknown holders of the evidences of indebtedness, and of holders who have not given their consent in writing, the board of directors shall file in the circuit court of the county in which the office of the irrigation district is located a petition in rem, verified by the oath of the president or secretary of the district. The petition shall set forth the plan adopted by the district for retiring or refunding the evidences of indebtedness. The petition shall also recite what percentage of the amount of the evidences of indebtedness is held by the holders of the evidences of indebtedness who have filed their written consent to the proposed plan. The percentage shall be not less than 80 percent of the amount of the evidences of indebtedness. The petition shall further set forth what steps have been taken to attain the consent of all nonconsenting holders. [Formerly 545.282]

545.635 Notice of court proceeding to obtain constructive consent; effect of failure to file objection. (1) Upon presentation of the petition to the judge of the circuit court, the judge shall authorize the district to publish, and the district shall cause to be published a notice describing the substance of the terms of settlement under which the evidences of indebtedness of the district are to be surrendered, refunded, satisfied, compromised, exchanged or discharged under the provisions of ORS 545.565 to 545.621. The notice shall be printed for at least four consecutive weeks in three newspapers published in Oregon that are designated by the court. One of the newspapers must be published in the county in which the office of the board of directors is located if such a newspaper exists.

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

(3) After 90 days from the date of the first publication of the notice, the holders failing to file their objections and protests with the court shall be considered to have consented to the refunding, compromise or settlement of the indebtedness under the terms set forth in the notice. The failure to file shall be considered the equivalent of the offer in writing signed by known consenting holders. [Formerly 545.284]

545.637 Hearing on petition; judgment; trustee. (1) After the expiration of 90 days from the date of the first publication of the notice, the district shall file in the proceeding in the circuit court its verified return of its acts made under the order of the court, attaching affidavits of the publication of the notice in three newspapers. Thereupon the court shall promptly hear the cause and shall enter a judgment providing that all the owners and holders of the evidences of indebtedness to be retired or refunded by the plan of the district, who have not within 90 days after the date of the first publication of the notice filed in the court their written dissent and objections to the proceedings, have consented to having their evidences of indebtedness retired or refunded under the proposed plan.

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

(3) All holders of evidences of indebtedness to be retired or refunded shall be considered to have notice of all steps and proceedings taken under this section, ORS 545.629, 545.631, 545.633 and 545.635. [Formerly 545.286; 2003 c.576 §501]

545.639 Nature of proceeding; appeal; nonprejudicial errors; costs. The procedure in the circuit court under ORS 545.629 to 545.637 shall be in the nature of an equitable proceeding in rem. Any holder of evidences of indebtedness affected by any court procedure under ORS 545.629, 545.631, 545.633,

545.635 and 545.637, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after the entry of the judgment of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission that does not affect the substantial rights of the parties and may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court. [Formerly 545.288; 2003 c.576 §502]

ALTERNATIVE METHOD OF LIQUIDATING INDEBTEDNESS

545.643 Contract providing plan of liquidation; resolution; investigation by and approval of Water Resources Commission. An irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of all or part of its outstanding bonded or other indebtedness, whether then due or not due, may adopt the procedure provided by ORS 545.643 to 545.667. The procedure provided by ORS 545.643 to 545.667 is in lieu of other procedures provided by law. Before becoming a party to a contract under ORS 545.643 to 545.667, the board of directors shall adopt a resolution substantially describing all the terms and conditions of the proposed contract and requesting the Water Resources Commission to make an investigation of all matters relating to the district, with particular reference to the ability of the district or the landowners in the district to perform the obligations of the proposed contract. Upon receipt of a copy of the resolution, the Water Resources Commission shall conduct the investigation, which shall include all physical, economic and financial matters relating to the district and the irrigable acreage of each legal subdivision or other described tract of land if held in separate ownership. If, after the investigation, the Water Resources Commission determines that the contract may prudently be executed by the district, the Water Resources Commission shall advise the district of its determination by adopting a resolution of the commission to that effect. [Formerly 545.312]

545.645 Terms of contract; parties; execution. (1) Notwithstanding any other statute expressly or impliedly limiting the powers of the parties named in this section to enter into a contract, a contract under ORS 545.643 to 545.667 may provide a plan for liquidation of any indebtedness by the district to which the parties may agree. The contract may provide for terms of discount of the principal or interest, times and manner of payment and apportionment of the obligations of the contract over the irrigable or other lands within the district and the water rights appurtenant to those lands. All parties named in subsection (2) of this section may become party to, sign, seal, execute and deliver any contract so agreed upon, according to ORS 545.643 to 545.667.

(2) The parties to the contract shall include:

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

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

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

(3) The contract shall be executed by all parties with such formalities as will entitle it to be recorded. [Formerly 545.314]

545.647 Recording of contract; effective date; preeminence of contract with respect to rights and liabilities. Upon the execution and delivery of the contract, the board of directors shall cause it to be recorded in the records of mortgages in the counties in which any part of the lands covered by the contract are located. Upon recordation, the contract shall become effective in accordance with its terms as of the effective date agreed upon in the contract. As of the effective date, the rights, privileges, liabilities and obligations of all parties to the

contract, as described in the contract, shall govern and control all parties in lieu of all statutory rights, privileges, liabilities and obligations theretofore governing and controlling the parties in the premises. [Formerly 545.316]

545.649 New contract in lieu of previous contract. After the execution, delivery and recording of a contract as described and authorized in ORS 545.645 and 545.647, the irrigation district and all other parties to the contract, their successors, heirs, executors, administrators and assigns, may become parties to a new contract in lieu of the contract then in effect. A new contract shall be adopted under ORS 545.643 to 545.667 in the same manner as the contract then in effect. [Formerly 545.318]

545.651 Constructive consent of holders of outstanding indebtedness; procedure for obtaining consent; petition. (1) For the purpose of obtaining constructive consent of the unknown owners or holders of the bonds or other evidences of indebtedness, who have not either personally or through a protective committee become party to the contract executed in accordance with ORS 545.643 to 545.667, the board of directors shall file a petition in rem verified by the oath of the president or secretary of the district. The petition shall substantially describe the terms and conditions of the contract executed by the district for the liquidation of the bonds or other evidences of indebtedness. The petition shall be filed in the circuit court for the county in which the office of the district is located.

(2) The petition shall further state what percentage of owners or holders of bonds or other evidences of indebtedness have become parties to the contract. The percentage shall be not less than 80 percent of those owners or holders. The petition shall further set forth what steps have been taken to get the consent of all nonconsenting owners or holders of the bonds or other evidences of indebtedness. [Formerly 545.320]

545.652 [Repealed by 1973 c.415 §14]

545.654 [Repealed by 1973 c.415 §14]

545.655 Notice of petition and terms of contract; failure to file dissent; effect. (1) Upon presentation of the petition to the court, the court shall authorize the district to publish a notice describing in substance the terms and conditions of the contract. The district shall cause the notice to be published, for at least four consecutive weeks in three newspapers published within Oregon and designated by the court. One of the newspapers must be published in the county in which the office of the board is located, if such a newspaper exists.

(2) The notice shall contain a general description of the evidences of indebtedness to be liquidated and the amount of indebtedness. The notice shall require all holders of the evidences of indebtedness to file in the proceeding their written dissent from or objection to the contract. The notice shall also state that if such dissent is not filed in writing in the court within 90 days from the date of the first publication of the notice, the owners or holders of the evidences of indebtedness failing to file their dissent or objections shall be considered to have consented to all the terms and conditions of the liquidation of the indebtedness as provided in the contract. Failure within the 90-day period to file dissent and objections with the court shall be the equivalent of the signing, execution and delivery of the contract either personally or through the agency of the protective committee by the known consenting owners or holders of the evidences of indebtedness. [Formerly 545.322]

545.656 [Repealed by 1973 c.415 §14]

545.658 [Repealed by 1973 c.415 §14]

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

(2) In the judgment, the court shall direct that the pro rata part of the cash received that, under the contract, belongs to the owners or holders of the evidences of indebtedness whose consent was obtained by the court proceedings be deposited with the county treasurer of the county in which the office of the district is located. The county treasurer shall be trustee for the persons entitled to the moneys. The court shall direct the deposit to be made by the officers of the district, the landowners within the district or the protective committee acting for the consenting owners or holders, as the court may consider most expedient and practicable under the terms of the contract.

(3) The judgment shall also provide that, upon the payment of the money to the county treasurer as trustee, the evidences of

indebtedness held by the owners or holders shall be considered paid and no longer shall be an obligation as provided in the contract. The judgment shall further provide that, upon surrender to the county treasurer of the bonds with the unpaid interest coupons or other evidences of indebtedness, the county treasurer shall pay on demand to the owners or holders their pro rata part of the moneys deposited with the county treasurer as trustee. When paid in accordance with the contract, the county treasurer shall mark the evidences of indebtedness canceled and deliver the evidences of indebtedness to the district.

(4) All owners or holders of the evidences of indebtedness to be liquidated shall be considered to have notice of all steps taken and proceedings under ORS 545.643 to 545.667. [Formerly 545.324; 2003 c.576 §503]

545.660 [Repealed by 1973 c.415 §14]

545.662 [Repealed by 1973 c.415 §14]

545.663 Nature of proceeding; appeal; nonprejudicial errors; costs. The procedure in the circuit court under ORS 545.651, 545.655 and 545.659 shall be in the nature of an equitable proceeding in rem. Any owner or holder of evidences of indebtedness affected by the court proceeding or any other interested party may appeal to the Court of Appeals at any time within 30 days after issuance of the judgment of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission that does not affect the substantial rights of the parties. The Court of Appeals may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court. [Formerly 545.326; 2003 c.576 §504]

545.664 [Repealed by 1973 c.415 §14]

545.666 [Repealed by 1973 c.415 §14]

545.667 State Treasurer as depository. The State Treasurer may act as depository for any purposes under ORS 545.643 to 545.667. All warrants, bonds or other evidences of indebtedness may be deposited with the State Treasurer for safekeeping. [Formerly 545.332]

ADDITIONAL METHOD OF LIQUIDATING INDEBTEDNESS

545.671 Contract providing plan of liquidation; resolution of directors. Any irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of all or part of its outstanding bonded or other indebtedness, whether then due or not due, may choose to adopt the procedure provided by ORS 545.671 to 545.679. The procedure provided by ORS 545.671 to 545.679 is in lieu of other procedures provided by law. Before becoming a party to a contract under ORS 545.671 to 545.679, the board of directors shall adopt a resolution substantially describing all the terms and conditions of the proposed contract. [Formerly 545.352]

545.673 Terms of contract. Notwithstanding any other statute expressly or impliedly limiting the powers of the parties named in this section to enter into a contract, a contract under ORS 545.671 to 545.679 may provide a plan for liquidation of any indebtedness of the district to which all the parties may agree. The contract may provide for terms of discount of the principal and interest, times and manner of payment and apportionment of the obligations of the contract over the irrigable or other lands. The contract may also provide for the manner and method of making assessments for payment of the principal and interest agreed to be paid, and for the issuance of certificates or other evidences of participation in the contract by the owners or holders of evidences of indebtedness of the district. The contract may contain a provision permitting the release of any land in the district from any lien created by the contract to secure the payment of the obligations of the contract as to that land or relieving any land in the district from any obligation to pay any assessment thereafter levied for the purpose of meeting the obligations or interest accruing under the contract. The contract may provide that the release or relief of land from liens or obligations under the contract may be done by payment to the district of an amount of money as provided in the contract, or by delivery of bonds or coupons or other evidence of participation in the contract. [Formerly 545.354]

545.675 Parties to contract; execution. (1) All parties described in this section are authorized to become party to, sign, seal, execute and deliver a contract agreed upon under ORS 545.671 to 545.679. The parties shall include:

(a) The irrigation district; and

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

(2) The contract shall be executed by all parties with such formalities as will entitle it to be recorded. [Formerly 545.356]

545.677 Election authorizing directors to enter into contract. The contract provided for in ORS 545.671 to 545.679 may be entered into by the district by its board of directors when a majority vote of the electors of the district authorizes the contract. [Formerly 545.358]

545.679 Recording of contract; effective date; preeminence of contract with respect to rights and liabilities. Upon execution and delivery of a contract under ORS 545.671 to 545.679, the board of directors shall cause the contract to be recorded in the records of mortgages in the counties in which the lands covered by the contract are located. After recordation of the contract, the contract shall become effective in accordance with its terms. As of the effective date agreed upon in the contract, the rights, privileges, liabilities and obligations of all parties to the contract, as described in the contract, shall govern and control all the parties in lieu of all statutory rights, privileges, liabilities and obligations previously governing and controlling the parties in the premises. [Formerly 545.360]

CLAIMS AGAINST DISTRICTS

545.683 Submission of claims to board; drawing of warrants; payment; lack of funds; interest on warrants; debts payable by warrants; receipt of warrants, bonds and interest coupons in payment of charges; amount of outstanding warrants; monthly report of district finances. (1) Claims against the district shall be submitted to the board upon vouchers. Upon order of the board the president and secretary shall draw warrants in payment of the claims. The county treasurer shall pay the warrants, if there are funds available for that purpose. If funds are not available, the treasurer shall so indorse the warrants. From the date of the indorsement the warrants shall bear interest at a rate not exceeding six percent per annum until paid or until notice has been given that funds are available for payment of the warrants. Except for payments that may be made by irrigation district bonds, the warrants shall be drawn in payment of any debt, liability or obligation incurred in carrying out the Irrigation District Law.

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

(3) On the first Tuesday in each month, the county treasurer shall report to the board, in writing, the amount of money in the several funds of the district, the amount of receipts for the month preceding, and the amount of items of expenditures. The report shall be verified and filed with the secretary of the board. [Formerly 545.562]

545.685 Establishing bank account for payment of labor and emergency expenses. (1) The board of directors of an irrigation district may withdraw from any moneys deposited on behalf of the district an amount designated by the board and deposit it in an account with any insured institution, as defined in ORS 706.008, that is approved by the board to be maintained in the name of the district for the purposes set forth in subsection (2) of this section.

(2) The account established under this section shall be used for the payment of any claims arising out of labor and emergency expenses incurred by the district during any month. Moneys may be withdrawn from the account by check signed by a person authorized to do so by the board of directors. The expenditures made shall be ratified and audited by the board at each regular meeting. [Formerly 545.563; 1997 c.631 §488]

545.990 [Repealed by 1969 c.344 §8]

CHAPTER 546

[Reserved for expansion]