Chapter 372

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Highway Lighting Districts

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

(1) "County board" means board of county commissioners or county court of a county.

(2) "County" means the county in which the district, or the greatest length of highway to be illuminated, is located.

(3) "District" means a highway lighting district formed under this chapter.

(4) "District board" or "board of commissioners" means the governing body of a district.

(5) "Highway" means any road or way open to public travel.

(6) "Owner" or "landowner" means the holder of record title to real property or the vendee under a recorded land sale contract, if there is such a contract. [Amended by 1955 c.80 §1; 1971 c.514 §1; 1983 c.83 §83]

372.020 Authority to organize district. The abutting property owners or the electors resident along any highway may organize a highway lighting district for the purpose of illuminating the highway abutting their respective properties in the manner provided by this chapter. [Amended by 1971 c.514 §2; 1971 c.727 §109]

372.030 Location of district. A highway lighting district may be entirely outside the limits of a city or it may be both outside and inside such limits. The boundary lines of the district shall include only territory that abuts a portion, not less than 600 feet in length, of a highway. [Amended by 1971 c.514 §3]

372.040 Petition to organize district; contents. A petition for the formation of a district, in addition to other matters required, shall set forth:

(1) The number of owners of property abutting the highway within the proposed district.

(2) The estimated initial cost of the acquisition and installation of the lighting equipment and the easements or permits necessary to carry out the purposes of the proposed district.

(3) The estimated annual cost of maintenance and operation.

(4) Further information as appropriate to fully inform the public of the plan of illumination of the highway. [Amended by 1971 c.514 §4; 1971 c.727 §110]

372.045 County board as district governing board; filing petition; landowners as signatories; transfer of records and files. (1) The county board may be established as the governing board of a district. If the petition for formation filed under ORS 372.040 requests the county board to be the governing board of the district and the district is formed as provided by ORS 198.795 to 198.845, the county board shall act as the district board thereafter.

(2) After the formation of a district, the county board shall act as the district board if a petition is filed with the county board requesting that it do so. The petition may be presented by the district board or it may be presented by the landowners in the district. A petition presented by landowners shall be signed by landowners within the district owning not less than 50 percent of the front footage abutting the portion of highway included within the district. A copy of a landowners' petition shall be sent to the district board before it is filed with the county board. When a county board becomes the governing body of a district under this subsection, the district board shall turn over to the county board the books, records, files, assets and obligations of the district and upon the delivery thereof, the county board shall become and thereafter act as the district board. [1971 c.514 §20b; 1987 c.158 §65]

372.050 [Amended by 1971 c.514 §5; repealed by 1971 c.727 §203]

372.060 [Amended by 1971 c.514 §6; repealed by 1971 c.727 §203]

372.070 [Amended by 1971 c.514 §7; repealed by 1971 c.727 §203]

372.080 [Amended by 1971 c.514 §8; repealed by 1971 c.727 §203]

372.090 Inspection and report by engineer. Upon the filing of the petition for formation, the county board shall, by order, direct the county engineer to:

(1) Make an inspection and investigation of the proposed lighting project and of the area described in the petition with respect to feasibility and public convenience and necessity.

(2) File a report for the proposed district with the county board on or before a day specified in the order, but not later than the day fixed for the hearing on the petition. [Amended by 1965 c.85 §1; 1971 c.514 §9; 1971 c.727 §111]

372.100 [Amended by 1971 c.514 §10; repealed by 1971 c.727 §203]

372.110 [Amended by 1965 c.85 §2; 1971 c.514 §11; repealed by 1971 c.727 §203]

372.120 [Amended by 1971 c.514 §12; repealed by 1971 c.727 §203]

372.130 [Amended by 1971 c.514 §13; repealed by 1971 c.727 §203]

372.140 General powers of district. A highway lighting district may:

(1) Make contracts.

(2) Hold, receive and dispose of real and personal property within and without its described boundaries.

(3) Do all other acts and things requisite, necessary or convenient in carrying out the objects of the district or exercising the powers expressly conferred upon it by this chapter.

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

(5) Have and exercise within and without its boundaries the same rights and powers as other local governments as defined in ORS 174.116, in purchasing and selling real property and rights of way, to be exercised in the manner authorized.

(6) Purchase in the open market or obtain from other public utility corporations, electric energy for lighting purposes and poles, wires, conduits, lighting fixtures and all types of property necessary to enable the district to carry out its purposes.

(7) Enter into contracts with any person:

(a) For the construction, maintenance and operation, or any of these, of the lighting facilities or any one or more of such services.

(b) For the renewal, upkeep and maintenance of the lighting facilities or any part thereof.

(c) For the use of any lighting facilities if and when owned by such person.

(8) Contract with the state, by and through the Department of Transportation, and its successors in interest, with respect to any phases of the lighting of any highway within the district which is owned by the state or under its control. [Amended by 1971 c.514 §14; 2003 c.802 §110]

372.150 Illumination of state highways; cooperation with department. (1) The plans and specifications for the illumination of a state highway shall be submitted to and be approved by the Department of Transportation before a district is authorized to acquire the equipment for illumination or to install it on any state highway.

(2) A district shall maintain and operate illumination equipment on a state highway in cooperation with and with the approval of the Department of Transportation. [Amended by 1971 c.514 §15]

372.160 [Amended by 1971 c.514 §16; repealed by 1995 c.733 §74]

372.170 Power to assess, levy and collect taxes. (1) The district may assess, levy and collect assessments upon all real property situate within its boundaries and which is by law taxable for state and county purposes in each year, on any reasonable basis of assessment. However, the assessment shall not exceed $1 per each front foot of the property abutting on the highway, or portion thereof, proposed to be or lighted. The proceeds of the assessment shall be applied in carrying out the objects and purposes of the district.

(2) The district may also assess, levy and collect a special assessment upon all such property in an amount sufficient to pay the initial construction and installation cost. [Amended by 1965 c.21 §1; 1971 c.514 §17]

372.175 Filing boundary change with county assessor and Department of Revenue. For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [2001 c.138 §25]

372.180 Assessment, levy and collection procedure. (1) The district board each year shall estimate assessments needed, and the amount thereof shall be levied and returned to the county officer whose duty it is to extend the tax roll at the time required by law for other taxes to be levied and returned.

(2) All assessments levied by the district shall become payable at the same time, be collected by the same officer who collects county taxes and be turned over to the district according to law.

(3) The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended. The district levy is subject to the limits set forth in ORS 310.150.

(4) Property shall be subject to sale for the nonpayment of assessments levied by the district in like manner and with like effect as in the case of county and state taxes. [Amended by 1971 c.514 §18; 1991 c.459 §392]

372.190 Exemption of railroad right of way from assessment. Except for railroad right of way that abuts on the highway at a grade crossing, railroad right of way shall not be subject to assessment by a district. [Amended by 1971 c.514 §19]

372.200 District commissioners; number; qualifications; appointment. (1) The power given to districts, except as otherwise provided by this chapter, is vested in and shall be exercised by a board of five commissioners. Except as provided by ORS 372.210, each commissioner shall be appointed to serve for a term of four years. The order by which the county board proclaims the formation of the district shall appoint five commissioners to serve as the first board of the district.

(2) Each commissioner shall be an elector of the district.

(3) Notwithstanding subsection (2) of this section, if there are fewer than 10 electors

registered in the district, the county board may appoint as commissioner any owner of land within the district who also is an elector of the state as defined in ORS 246.012. [Amended by 1971 c.514 §20; 1983 c.48 §1]

372.210 Organization; terms of commissioners; disqualification; vacancies. (1) Within 10 days after the issuance of the order proclaiming the formation of a district, the commissioners shall meet and organize by each first taking and subscribing an oath of office.

(2) After qualifying, the commissioners first appointed shall determine by lot the length of term each shall hold office. The term of one commissioner shall expire the first Monday in January next following the appointment of that commissioner and the terms of the other four shall expire one in one year, one in two years and two in three years after the first Monday in January next following their appointment.

(3) Each year during December the county board shall appoint a successor for any commissioner whose term expires the next following January.

(4) If a commissioner ceases to be an elector of the district, or if a commissioner who is not an elector of the district and who is appointed to serve under ORS 372.200 (3) or 372.360 (2) ceases to be an elector of the state or an owner of land within the district, the commissioner is automatically disqualified. If a vacancy occurs as provided by this subsection or for any other cause, the county board shall by order appoint a successor to hold office until the expiration of the predecessor's term. [Amended by 1969 c.669 §7; 1971 c.514 §21; 1983 c.48 §2]

372.220 Meetings and officers of board. (1) The district board shall hold meetings at the times and places within the district as it determines. It shall hold at least one regular meeting annually in January on a day to be fixed by the board. The board may hold special meetings as it may provide by rule.

(2) The board shall, at the time of organization, choose from the commissioners, a president, secretary and a treasurer, who shall hold their offices until the first regular meeting in January, or until a successor is appointed and qualified. The officers shall have the powers and perform the duties usual in such cases.

(3) A majority shall constitute a quorum to do business, and in the absence of the president any other member may preside at any meeting as provided by the rules of the board. [Amended by 1965 c.85 §3; 1971 c.514 §22]

372.230 [Repealed by 1969 c.345 §20]

372.240 District employees; expenses of board. The district board may employ engineers, superintendents, mechanics, clerks, secretaries or other persons as requisite, necessary or convenient, in carrying on any of its work, at a rate of remuneration fixed by the board. [Amended by 1971 c.403 §6; 1971 c.514 §23]

372.250 [Repealed by 1969 c.344 §8]

372.260 Deposit and withdrawal of district moneys; annual reports. (1) All moneys of a district shall be deposited in one or more banks designated by the district board. Moneys shall be paid out only when previously ordered by vote of the board and upon a check signed by the treasurer and countersigned by the president, or in the absence or inability of the president to act, by the secretary. A receipt or voucher, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) Annual reports shall be made and filed by the president, secretary and treasurer, and at least once in each year a full and complete itemized statement of receipts and expenditures shall be published in a newspaper of general circulation, published in the county. [Amended by 1971 c.514 §24]

372.270 Preservation and inspection of records. All the proceedings of the district board shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the district shall be carefully preserved, and shall be open to inspection as public records. [Amended by 1971 c.514 §25]

372.280 Initiative and referendum in districts. The electors of a district may exercise the initiative and referendum powers with reference to legislation of the district, in accordance with ORS 255.135 to 255.205. [Amended by 1971 c.514 §26; 1983 c.350 §247]

372.290 [Repealed by 1971 c.514 §32 and 1971 c.727 §203; (372.450, 372.460, 372.470 and 372.480 enacted in lieu of 372.290)]

372.310 Petition for annexation of land to district. Land abutting a highway may be annexed to a highway lighting district. The petition shall set forth in addition to other matters the information required by ORS 372.040 as applied to the area proposed to be annexed. [1955 c.80 §3; 1971 c.514 §37; 1971 c.727 §112]

372.320 [1955 c.80 §4; 1971 c.514 §38; repealed by 1971 c.727 §203]

372.330 [1955 c.80 §5; 1971 c.514 §39; repealed by 1971 c.727 §203]

372.340 [1955 c.80 §6; 1971 c.514 §40; repealed by 1971 c.727 §203]

372.350 [1955 c.80 §7; repealed by 1971 c.514 §44 and 1971 c.727 §203]

372.360 Board for consolidated district; appointment. In an order of consolidation or merger of two or more districts, the county board:

(1) Shall appoint, except as provided in subsection (2) of this section, five electors of the surviving or successor district as members of the first district board of the consolidated district.

(2) May appoint, if there are fewer than 10 electors registered in the consolidated district, any owner of land within the district who is also an elector of the state as defined in ORS 246.012. [1955 c.80 §8; 1971 c.514 §41; 1971 c.727 §113; 1983 c.48 §3]

372.370 [1955 c.80 §9; 1971 c.514 §42; repealed by 1971 c.727 §203]

372.380 [1955 c.80 §10 1971 c.514 §43; repealed by 1971 c.727 §203]

372.400 Petition for withdrawal of territory from district; notice; hearing. (1) The landowners within a district may petition the county board for withdrawal of a designated and described contiguous area lying along the boundary of and included in the district.

(2) The county board, where it appears that the petition has been signed by 10 percent of the landowners representing not less than 10 percent of the front footage abutting the highway included in the district, shall fix a time and place for hearing the petition, which time shall be not less than 31 nor more than 50 days after the date of receipt thereof. At least 10 days prior to the hearing, the county board shall publish a notice thereof by two insertions in a newspaper of general circulation in the district. [1971 c.514 §28]

372.410 Petitioners to pay cost of notices and preparation of revised boundary descriptions. At the time of filing the petition for withdrawal, the petitioners shall deposit with the county clerk a sum of money sufficient to defray all the costs of publication and the expenses of preparing and filing with the county board the description of the boundaries of the district remaining, should such designated area be withdrawn. The petitioners shall have notice of the filing of the petition given in writing to the secretary of the district board and shall furnish the secretary with a copy of the petition as filed within five days after it is filed. [1971 c.514 §29]

372.420 Board to order withdrawal of territory if remonstrance not filed; grounds for denial or granting of petition. (1) If at the time and place set for hearing upon the withdrawal petition no remonstrance is filed, either orally or in writing, the county board shall enter an order withdrawing the designated and described contiguous area from the district. If at the hearing any remonstrance is filed and after the hearing the county board is satisfied that the petition should not be granted, then the board may deny the petition or it may change the boundaries of the area proposed to be withdrawn and grant the petition. The boundaries may be reduced if such boundary change will eliminate the remonstrance filed in whole or in part, and if the county board finds that:

(a) The lands withdrawn could not be benefited by the district; and

(b) The lands remaining in the district will meet the requirements of ORS 372.030.

(2) If the petition is granted, the county board shall enter an order withdrawing the area from the district. [1971 c.514 §30]

372.430 Withdrawn area not subject to subsequent assessments or taxes. The area withdrawn shall, after the date of entry of the withdrawal order, be free from assessments and taxes levied thereafter by the district. However, the withdrawn area shall be taxed for its proportionate share of any indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all property contained in the district immediately prior to the withdrawal. [1971 c.514 §31]

372.450 District dissolution petition or resolution. Dissolution of a district may be initiated:

(1) By a petition for dissolution of the district, filed with the district board, signed by the owners representing not less than 50 percent of the front footage abutting the highway included in the district.

(2) By resolution of the district board when it determines that it is in the best interests of the inhabitants of the district that the district be dissolved and liquidated. [1971 c.514 §33]

372.460 Board findings on proposed dissolution; proposed plan. (1) When the dissolution of a district is proposed, the board shall make findings of fact which shall include:

(a) The amount of each outstanding indebtedness, together with a general description thereof and the holders thereof, so far as known.

(b) The estimated cost of dissolution.

(c) The assets of the district.

(d) A detailed statement of all lands acquired by the district for delinquent taxes or delinquent assessments and the amount of the taxes and assessments on each parcel of land sold.

(e) All taxes or assessments unpaid and the amount upon each lot or tract of land and all other assets of the district.

(2) The board shall propose a plan of dissolution and liquidation which may include provision for transfer and conveyance of all assets of the district to any county service district organized under ORS chapter 451 which will assume all its outstanding indebtedness and undertake to continue to furnish service to the inhabitants of the district.

(3) The findings of fact and proposed plan of dissolution and liquidation shall be filed in the office of the county clerk of the county. [1971 c.514 §34]

372.470 Filing of dissolution plan with county board; notice; hearing. (1) When the district board has complied with ORS 372.460, it shall thereupon file the petition or resolution with the county board of the county and request dissolution of the district in accordance with the plan. No proposal shall be filed until the assent of all known holders of valid indebtedness against the district is obtained or provision is made in the plan for payment of the nonassenting holders.

(2) Upon the filing of the proposal, the county board shall fix a time for, and cause notice to be given of, a hearing on the petition. The hearing shall be held not less than 30 nor more than 50 days after the date the petition is filed with the board. Notice of the hearing shall be given by:

(a) Posting in three public places within the district not less than 15 days prior to the hearing; and

(b) Publication in some newspaper of general circulation in the district once a week for three successive weeks before the hearing, making three publications, the last publication being at least five days before the hearing.

(3) The notice shall state the time and the place of the hearing, that it is proposed to dissolve the district and that any interested person may appear and shall be given a reasonable opportunity to be heard. The notice shall give a brief summary of the proposed plan of dissolution and liquidation and state that a copy is on file at the office of the county clerk, available for inspection. [1971 c.514 §35]

372.480 Grounds for granting dissolution; assumption of district indebtedness; disposition of surplus; statement of dissolution. (1) After the hearing, if the county board determines it is in the best interest of the district to dissolve, it shall grant the petition and enter an order dissolving the district or the county board may deny the petition. If an order is entered dissolving the district, the district board shall thereupon constitute a board of trustees to dispose of the property of the district and pay its debts and obligations or procure releases thereof.

(2) If a county service district assumes all indebtedness of the highway lighting district and undertakes to continue to furnish service to the inhabitants pursuant to the plan of dissolution and liquidation, and if the consent of all the known holders of valid indebtedness against the district has been obtained or provision has been made in the plan for payment of the nonassenting holders, the board of trustees may convey to the county service district all assets of the highway lighting district as described by the district board under ORS 372.460 after paying and discharging the debts to, or procuring releases from, the nonassenting holders.

(3) Except as provided by subsection (2) of this section, any surplus funds remaining to the credit of the district, after payment of the indebtedness of the district, shall be turned over to the county treasurer to become a part of the general fund of the county. If the assets of the district are insufficient to pay the indebtedness, the board of trustees shall levy taxes, within the limits of the authority of the district, for the liquidation of such indebtedness.

(4) Upon completing liquidation of the highway lighting district, the board of trustees shall execute, under oath, a signed statement that the district has been dissolved and its affairs liquidated, which statement shall be filed in the office of the county clerk of the county. [1971 c.514 §36]