

Chapter 548

Provisions Applicable Both to Drainage Districts and to Irrigation Districts

548.010

NOTES OF DECISIONS

The term "lands" includes easements as well as lands which are held by fee simple title. *Warm Springs Irr. Dist. v. Pac. Live Stock Co.*, (1921) 270 Fed 560.

548.105 to 548.115

NOTES OF DECISIONS

This Act was intended to apply even though the judgment of the court might invalidate the action of the board. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 150.

This Act was taken from California law and the decisions of that court are highly persuasive. *Id.*

548.105

NOTES OF DECISIONS

The scope of the decree includes a judicial examination as to the regularity and legality of: (1) the organization proceedings; (2) the issue and sale of the bonds of the district; (3) the order of the county court declaring the organization of the district; (4) the declaration of the result of any district election; (5) the order of the board including in or excluding land from the district; (6) the order of such board levying any assessment; (7) the issue of any bonds or determining any bond issue; (8) the legality of proceedings authorizing a contract with the United States. *Twohy Bros. Co. v. Ochoco Irr. Dist.*, (1923) 108 Or 1, 210 P 873, 216 P 189.

FURTHER CITATIONS: *Payette-Ore. Slope Irr. Dist. v. Peterson*, (1915) 76 Or 630, 149 P 1051; *Re Grants Pass Irr. Dist.*, (1918) 87 Or 643, 171 P 486; *Re North Unit Irr. Dist.*, (1920) 95 Or 520, 187 P 839; *Harney Valley Irr. Dist. v. Weittenhiller*, (1921) 101 Or 1, 198 P 1093; *Re Application of Riggs*, (1922) 105 Or 531, 207 P 175, 210 P 217; *Re Scappoose Drainage Dist.*, (1925) 115 Or 541, 237 P 684, 239 P 193; *Noble v. Yancey*, (1925) 116 Or 356, 241 P 335; *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 150.

548.110

NOTES OF DECISIONS

Jurisdiction is acquired by the filing of the petition and the giving of notice. *Harney Valley Irr. Dist. v. Bolton*, (1923) 109 Or 486, 221 P 171.

Since the proceedings are in rem, the landowners affected are bound thereby, notwithstanding the fact that there has been no personal service upon them. *Id.*

It is the intention of this Act that notice should be given at the direction of the court, without limitation of time. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

The decree not having been appealed from was res judicata. *Johnson v. Warm Springs Irr. Dist.*, (1926) 118 Or 239, 246 P 527; *Weber v. Jordan Valley Irr. Dist.*, (1923) 109 Or 426, 220 P 146.

FURTHER CITATIONS: *Noble v. Yancey*, (1925) 116 Or 356, 363, 241 P 335.

ATTY. GEN. OPINIONS: Regarding sufficiency of notice and summons, 1930-32, p 379, 1936-38, p 71.

548.115

NOTES OF DECISIONS

The 30 days limitation under this section is not applicable to the action of board of directors in granting an option for the sale of bonds of the district. *Young v. Gard*, (1929) 129 Or 534, 277 P 1005.

Action of directors in giving option for sale of bonds is not one of the powers given the directors by statute. *Id.*

This section grants an assessment payor the right to contest the validity of the board's assessment order. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 150.

548.205

ATTY. GEN. OPINIONS: Sufficiency of resolution of supervisors of drainage district to warrant certification of bonds, 1920-22, p 469; state's obligation to pay bonds of irrigation and drainage districts which have been certified, 1920-22, p 471.

548.210

ATTY. GEN. OPINIONS: Approval by State Reclamation Commission of contracts between drainage districts and agencies of the United States prior to certification of bonds issued by districts, 1934-36, p 499; regarding statute under which certification of bond issue of drainage district should be made, 1926-28, p 361.

548.215

ATTY. GEN. OPINIONS: Basis of certification of bond issue of drainage district, 1928-30, p 258; necessity that the State Reclamation Commission proceed to carry out an investigation and procure a written report before making findings, 1936-38, p 71.

548.365

ATTY. GEN. OPINIONS: Authority of State Reclamation Commission to appoint a particular individual as trustee, with authorities and powers conveyed in a resolution and escrow agreement upon deposit of bonds of that irrigation district with the State Reclamation Commission as depository, 1934-36, p 645.

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

548.400

ATTY. GEN. OPINIONS: Authority of commission to furnish to irrigation districts the addresses of bondholders

whose securities have been deposited with the commission, 1934-36, p 47; treatment of application requesting permission to store water, 1950-52, p 206.

548.605

NOTES OF DECISIONS

This section was not unconstitutional as being a special or local law under Ore. Const. Art. IV, §23. Evert v. Ore. Colonization Co., (1927) 123 Or 225, 261 P 443.

The purpose of this section is to empower districts to enforce payment of taxes. Horsefly Irr. Dist. v. Hawkins, (1927) 121 Or 366, 254 P 825.

A certificate for district taxes should issue where other taxes have been paid. Horsefly Irr. Dist. v. Hawkins, (1927) 121 Or 366, 254 P 825; Horsefly Irr. Dist. v. Hawkins, (1928) 127 Or 176, 271 P 194.

A district is placed in the position of an individual in respect of demanding a certificate of delinquency, except that it need not pay penalties or interest or the taxes assessed in favor of itself; the law does not preclude the foreclosure of certificates of delinquency issued by the sheriff. Klamath County v. Colonial Realty Co., (1932) 139 Or 311, 7 P2d 976.

Lien of bondholders on the lands was not impaired by foreclosure of certificates of delinquency. State v. McClain, (1931) 136 Or 53, 298 P 211.

FURTHER CITATIONS: Daly v. Horsefly Irr. Dist., (1933) 143 Or 441, 21 P2d 787.

548.610 to 548.675

CASE CITATIONS: Murphy v. Clackamas County, (1954) 200 Or 423, 264 P2d 1040, 266 P2d 1065.

548.610

NOTES OF DECISIONS

Not having received water was a defense to suit to foreclose tax certificates for assessments. Enterprise Irr. Dist. v. Enterprise Land Co., (1931) 137 Or 468, 300 P 507.

FURTHER CITATIONS: Evert v. Ore. Colonization Co., (1927) 123 Or 225, 261 P 443; Horsefly Irr. Dist. v. Hawkins, (1928) 127 Or 176, 271 P 194; Daly v. Horsefly Irr. Dist., (1933) 143 Or 441, 21 P2d 787.

548.655

CASE CITATIONS: Peninsula Drainage Dist. 2 v. Portland, (1958) 212 Or 398, 320 P2d 277.

548.705

NOTES OF DECISIONS

Classification of irrigation districts by state courts as municipal corporations or public bodies did not prevent the legislature from passing statutes permitting them to act under the terms of the Federal Bankruptcy Acts. Re Summer Lake Irr. Dist., (1940) 33 F Supp 504.

LAW REVIEW CITATIONS: 20 OLR 316.

548.810

ATTY. GEN. OPINIONS: Power of commission excluding lands from a drainage district to refund money paid by land holders, 1930-32, p 643; authority of commission to issue easement deed, 1936-38, p 595; authority to expend funds for publication of irrigation and drainage district laws, 1938-40, p 138.