

Chapter 261

People's Utility Districts

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NOTES OF DECISIONS

People's Utility Districts are not pure municipal corporations, but are more accurately to be classified as quasi-corporations. *Wasco County P.U.D. v. Kelly*, (1943) 171 Or 691, 137 P2d 295; *Central Lincoln P.U.D. v. State Tax Comm.*, 221 Or 398, 351 P2d 694.

The legality of The People's Utility District Law should be determined by the laws applicable to municipal corporations. In *re People's Utility Dist.*, (1939) 160 Or 530, 86 P2d 460.

The People's Utility District Law does not contravene the due process clause of the State and Federal Constitutions, nor unlawfully delegate legislative power. *Id.*

The People's Utility District Law need not provide for hearings on boundaries and benefits as the owners of property in the district had an opportunity to protest against their property being included or that it would not be benefited in the hearing before the hydro-electric commission. *Id.*

LAW REVIEW CITATIONS: 20 OLR 3; 22 OLR 268; 25 OLR 159; 47 OLR 16-70; 4 WLJ 482, 497-500.

261.010

NOTES OF DECISIONS

The legislature meant by the term "sponsors" to refer to the persons, associations or municipalities who were responsible for originating the petitions. *Wasco County P.U.D. v. Kelly*, (1943) 171 Or 691, 137 P2d 295.

FURTHER CITATIONS: *Ollilo v. Clatskanie P.U.D.*, (1942) 170 Or 173, 132 P2d 416.

ATTY. GEN. OPINIONS: "Voters' preliminary petition," 1930-32, p 201, 1938-40, p 705; "voters petition," and "qualified voter," 1932-34, p 618; "municipality," 1934-36, p 579; "parcel of territory," 1938-40, p 705; "sponsors," 1940-42, p 622.

261.020

ATTY. GEN. OPINIONS: Service of judges and clerks of elections where precinct lies partly without people's utility district, 1940-42, p 80.

261.025

ATTY. GEN. OPINIONS: Voting by absentee ballot as applicable to elections in districts, 1940-42, p 216; persons responsible for holding district elections, 1954-56, p 4.

261.040

ATTY. GEN. OPINIONS: Counting of names signed both on petitions and remonstrances, 1940-42, p 386.

261.045

ATTY. GEN. OPINIONS: Persons responsible for holding district elections, 1954-56, p 4; residence qualification of director from annexed area, 1962-64, p 11.

261.105

ATTY. GEN. OPINIONS: Correction of annexation election returns, 1966-68, p 133.

261.110

NOTES OF DECISIONS

The legislature intended that where a municipality voted itself out of a proposed district, a utility district could be created out of the remaining "parcel of territory" voting in favor of the formation of the district, if the commission so recommended. *Ravlin v. Hood River P.U.D.*, (1940) 165 Or 490, 106 P2d 157.

No exercise of legislative authority by the commission is involved when it establishes a district with reformed boundaries. *Id.*

FURTHER CITATIONS: *Central Lincoln P.U.D. v. Smith*, (1943) 170 Or 356, 133 P2d 702; *Wasco County P.U.D. v. Kelly*, (1943) 171 Or 691, 137 P2d 295.

ATTY. GEN. OPINIONS: Sufficiency of petition for organization of Bay City People's Utility District, 1930-32, p 201; revision of boundaries, 1930-32, p 580; authority of voters of water district to determine for themselves at separate election whether they will join in formation of a proposed people's utility district, 1934-36, p 579; power and discretion of hydroelectric commission relative to formation of portion or portions of proposed people's utility district into a utility district, after an election has been had in territory included in the proposed district, 1936-38, p 684; tie vote as insufficient to exclude territory from utility district, 1938-40, p 761; enlargement of city boundaries between preliminary and final petitions for formation of utility district where municipality is named to describe proposed district's boundaries, 1940-42, p 395.

LAW REVIEW CITATIONS: 4 WLJ 482.

261.120

ATTY. GEN. OPINIONS: Procedure required for second election on same annexation question, 1966-68, p 133.

261.125

NOTES OF DECISIONS

The territory included in a utility district is not necessarily contiguous to other territory that is a part of the district. It is competent for the commission to exclude any property where there was a protest and they deemed it proper not

to include it in the district. In re People's Utility Dist., (1939) 160 Or 530, 86 P2d 460.

The commission has authority before an election to change the boundaries of a proposed district in the interests of public welfare. Ravlin v. Hood River P.U.D., (1940) 165 Or 490, 106 P2d 157.

ATTY. GEN. OPINIONS: Procedure required for second election on same annexation question, 1966-68, p 133.

261.130

NOTES OF DECISIONS

The "home rule" provisions of Ore. Const. Art. XI, §12 and former Const. Art IV, §1a, were complied with by election proceedings pursuant to this section. Ravlin v. Hood River P.U.D., (1940) 165 Or 490, 106 P2d 157.

The question submitted to voters is not whether the area proposed as a district should be created as a district, but whether "a" district should be created "as prayed for in said petition." Id.

FURTHER CITATIONS: In re People's Utility Dist., (1939) 160 Or 530, 86 P2d 460.

ATTY. GEN. OPINIONS: Power and discretion of hydroelectric commission relative to formation of portion or portions of proposed people's utility district into a utility district, after an election has been had in territory included in the proposed district, 1936-38, p 684; enlargement of city boundaries between preliminary and final petitions where municipality is named to describe proposed district's boundaries, 1940-42, p 395; change in personnel of sponsors' committee as affecting right to call for an election, 1940-42, p 622; hydroelectric commission calling election less than 50 or more than 60 days after the filing of sponsors' request, 1940-42, p 645; procedure required for second election on same annexation question, 1966-68, p 133.

261.150

NOTES OF DECISIONS

The legislature intended that where a municipality voted itself out of a proposed district, a utility district could be created out of the remaining "parcel of territory" voting in favor of the formation of the district, if the commission so recommended. Ravlin v. Hood River P.U.D., (1940) 165 Or 490, 106 P2d 157.

ATTY. GEN. OPINIONS: Formation of district encompassing several municipalities, 1930-32, p 785.

261.165

ATTY. GEN. OPINIONS: Procedure required for second election on same annexation question, 1966-68, p 133.

261.185

NOTES OF DECISIONS

Irregularity in having more than 500 registered voters in an election precinct did not render the election invalid. Ravlin v. Hood River P.U.D., (1940) 165 Or 490, 106 P2d 157.

ATTY. GEN. OPINIONS: Description of land included in a proposed people's utility district necessary to be set out in notice of election published in the county in which the election is to be held, 1936-38, p 575; contributions of money or services and expenditures incurred in a campaign for or against the formation of a proposed people's utility district, 1936-38, p 618; absent voters' law as applicable, 1940-42, p

216; requirement of special notice of election for organization of district, 1946-48, p 27.

261.190

NOTES OF DECISIONS

The board of directors was lawfully constituted and organized where one of directors who resided outside the revised boundaries of the district moved within the boundaries prior to the proclamation of creation of the district. Ravlin v. Hood River P.U.D., (1940) 165 Or 490, 106 P2d 157.

ATTY. GEN. OPINIONS: Defective nominating petition, 1932-34, p 618.

261.195

ATTY. GEN. OPINIONS: Validity of ballot, 1938-40, p 766.

261.200

ATTY. GEN. OPINIONS: Residence qualification of director from annexed area, 1962-64, p 11; procedure required for second election on same annexation question, 1966-68, p 133.

261.210

ATTY. GEN. OPINIONS: Payment of election expenses, 1930-32, p 732; hydroelectric commission as paying expenses, 1930-32, p 732; proportional liability of property included within proposed district, but excluded therefrom at election, 1938-40, p 465.

261.215

ATTY. GEN. OPINIONS: Residence qualification of director from annexed area, 1962-64, p 11.

261.305

NOTES OF DECISIONS

The functions which a people's utility district are to perform are such as affect persons and lands generally within the district, and the district, when created, is vested with broad powers to effectuate its purposes. In re People's Utility Dist., (1939) 160 Or 530, 86 P2d 460.

The levying of general taxes is authorized by this and other sections. Id.

The authority of a utility district to operate "within or without" its boundaries is conferred upon it in plain, unambiguous language. Central Lincoln P.U.D. v. Smith, (1943) 170 Or 356, 133 P2d 702.

A district has no implied power to issue and sell revenue bonds without prior voter approval. Fullerton v. Central Lincoln P.U.D., (1948) 185 Or 28, 201 P2d 524.

"Ordinary annual income and revenue" means ordinary net annual income, and indebtedness without voter approval is limited to that amount. Id.

FURTHER CITATIONS: Hillman v. No. Wasco County P.U.D., (1957) 213 Or 264, 323 P2d 664.

ATTY. GEN. OPINIONS: Power of utility district to enter into insurance contracts, 1950-52, p 196; power of private power companies and utility districts to spend funds on an election, 1954-56, p 4.

261.310

ATTY. GEN. OPINIONS: "Municipal district" as including water districts, 1940-42, p 182; defining "other municipal districts," 1960-62, p 325.

LAW REVIEW CITATIONS: 47 OLR 20, 25.

261.325

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

261.330

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

261.335

ATTY. GEN. OPINIONS: Competitive bidding requirements, 1962-64, p 100.

261.340

ATTY. GEN. OPINIONS: Competitive bidding requirements, 1962-64, p 100.

261.345

ATTY. GEN. OPINIONS: Overtime wages for work in excess of 48 hours in any one week, 1942-44, p 401; construing city "nearest to" the district, 1944-46, p 375.

261.350

ATTY. GEN. OPINIONS: People's utility district as required to furnish electric service to all applicants residing within boundaries of such district, 1934-36, p 665.

261.355**NOTES OF DECISIONS**

The district is not restricted to pledging only its revenues derived from within its boundaries. Central Lincoln P.U.D. v. Smith, (1943) 170 Or 356, 133 P2d 702.

A utility district need not have a definite or general plan for acquiring or constructing an electric system before submitting a bond issue to the voters. Gurdane v. No. Wasco County P.U.D., (1948) 183 Or 565, 195 P2d 171.

A district has no implied power to issue and sell revenue bonds without prior voter approval. Fullerton v. Central Lincoln P.U.D., (1948) 185 Or 28, 201 P2d 524.

261.365**NOTES OF DECISIONS**

A bond issue containing option to redeem bonds eight years after date of issuance, and including both callable and noncallable bonds in issue was valid. Ollilo v. Clatskanie P.U.D., (1942) 170 Or 173, 132 P2d 416.

Utility district bonds, bearing interest at four and one-half percent annually, containing option to redeem before maturity and at end of eight years or more after issuance, and providing for payment of additional interest up to three percent of principal to holders of bonds redeemed at end of eight years and additional interest at a gradually reduced rate for bonds redeemed thereafter, did not exceed six percent limitation. Id.

261.370**NOTES OF DECISIONS**

Although economic changes had ensued between autho-

rization of a bond issue by the electorate in 1940 and the utility district's bond ordinance in 1946 through delay caused by litigation, beginning a program of furnishing the proposed electrical system would not constitute fraud or an abuse of discretion. Gurdane v. No. Wasco County P.U.D., (1948) 183 Or 565, 195 P2d 171.

261.375**NOTES OF DECISIONS**

A proposition submitted to voters to "purchase or construct" a public utility is single in purpose. Ollilo v. Clatskanie P.U.D., (1942) 170 Or 173, 132 P2d 416.

The board is not required to purchase at one time all the property contemplated by the bond issue. Id.

This section does not require the immediate sale of all authorized bonds. Id.

A district has no implied power to issue and sell revenue bonds without prior voter approval. Fullerton v. Central Lincoln P.U.D., (1948) 185 Or 28, 201 P2d 524.

ATTY. GEN. OPINIONS: A resolution adopted by the board of a people's utility district, providing for issuance of revenue bonds, after such issuance was approved by vote of the people at an election held pursuant to this section requiring same, as subject to referendum, 1942-44, p 264; persons responsible for holding district elections, 1954-56, p 4.

261.385**NOTES OF DECISIONS**

The levying of general taxes is authorized by this and other sections. In re People's Utility Dist., (1939) 160 Or 530, 86 P2d 460.

ATTY. GEN. OPINIONS: Distribution of electricity as improvement for benefit of entire district, 1934-36, p 665; power to tax to discharge revenue bonds, 1940-42, p 565.

261.390

LAW REVIEW CITATIONS: 4 WLJ 476.

261.405**NOTES OF DECISIONS**

The board of directors was lawfully constituted and organized where one of directors who resided outside the revised boundaries of the district moved within them prior to proclamation of creation of the district. Ravlin v. Hood River P.U.D., (1940) 165 Or 490, 106 P2d 157.

ATTY. GEN. OPINIONS: Power of private power companies and utility districts to spend funds on an election, 1954-56, p 4; residence qualification of director from annexed area, 1962-64, p 11; effect of sub-districting, (1968) Vol 34, p 263.

261.410

ATTY. GEN. OPINIONS: Procedure when nominating petitions for public utility directors are not filed 60 days before election, 1948-50, p 67.

261.415

ATTY. GEN. OPINIONS: Tenure of utility district director when no successor is elected, 1948-50, p 108.

261.460

NOTES OF DECISIONS

Only ordinances of a legislative nature are subject to the referendum. Tillamook P.U.D. v. Coates, (1944) 174 Or 476, 149 P2d 558.

ATTY. GEN. OPINIONS: A resolution providing for issuance of revenue bonds as not being subject to referendum, 1942-44, p 264.

261.465

CASE CITATIONS: Stringham v. Union County P.U.D., (1948) 182 Or 565, 178 P2d 698, 187 P2d 150.

ATTY. GEN. OPINIONS: Duty of people's utility district as to the furnishing of service to all applicants residing within boundaries of district, rates to be charged customers and cost of line extensions, 1934-36, p 778; taxing property for operation and maintenance, 1940-42, p 565.

261.515

ATTY. GEN. OPINIONS: Placing questions on separate ballot when district election is held concurrently with general election, 1940-42, p 589.