

Chapter 330

Boundary Changes; Administrative School Districts

Chapter 330

ATTY. GEN. OPINIONS: More than one administrative school district, 1962-64, p 394.

330.005

NOTES OF DECISIONS

1. Under former similar statute

The existence of a de facto school district could not be attacked except in a direct proceeding by the state. *School Dist. 115 v. Sch. Dist.*, (1898) 34 Or 97, 55 P 98.

A district had no vested right to property which it acquired, but held it in trust for the general public. *School Dist. 48 v. Sch. Dist. 115*, (1911) 60 Or 38, 118 P 169.

The school district's functions in maintaining school buildings were not private, but public. *Spencer v. Sch. Dist. 1*, (1927) 121 Or 511, 254 P 357.

A school district was a political subdivision of the state and owed its creation to the general statutes of the state. *Jacobberger v. Sch. Dist. 1*, (1927) 122 Or 124, 256 P 652.

The school district was an agency of the state, created by law for the purpose of promoting education. *Antin v. Union High Sch. Dist. 2*, (1929) 130 Or 461, 280 P 664, 66 ALR 1271.

FURTHER CITATIONS: *School Dist. 17 v. Powell*, (1955) 203 Or 168, 279 P2d 492.

ATTY. GEN. OPINIONS: Determining when district is no longer a first class district, 1946-48, p 243; power of district boundary board to change boundaries of a district so as to exclude certain areas originally therein contained, 1946-48, p 525; changing of status of rural school district when census indicates that the district has over 1,000 school children, 1948-50, p 152; inclusion within district boundaries of federal-owned land leased to the state or to private individuals, 1950-52, p 7.

330.080 to 330.310

NOTES OF DECISIONS

The legislature had authority to enact a former similar statute delegating to the district boundary board authority to establish, change the boundaries of or abolish districts. *Evans v. Hurlburt*, (1926) 117 Or 274, 243 P 553.

An order of the district boundary board consolidating districts under a former similar statute could be attacked in an action for a declaratory judgment. *School Dist. 1 v. Sch. Dist. 45*, (1934) 148 Or 554, 37 P2d 873.

FURTHER CITATIONS: *Nicklaus v. Goodspeed*, (1910) 56 Or 184, 108 P 135; *Bayless v. Douglas Co.*, (1910) 57 Or 301, 111 P 384; *Magill v. French*, (1915) 76 Or 237, 241, 148 P State v. Sch. Dist. 9, (1934) 148 Or 273, 31 P2d 751, 36 P2d 179; *Union Sch. Dist. 5 v. Stanley*, (1949) 185 Or 531, 202

P2d 509; *School Dist. 68 v. Hoskins*, (1952) 194 Or 301, 240 P2d 949.

ATTY. GEN. OPINIONS: Necessity of posting three notices in each district affected, 1920-22, p 628; locality in which district can be organized, and effect of existence of orphanage within proposed district, 1922-24, p 241; alterations of boundaries of regular districts as not affecting boundaries of union high school districts containing regular districts, 1924-26, p 110; necessity for a district boundary board to give notice of date and place for hearing upon petition to change boundaries, 1928-30, p 446; procedure in changing boundaries of consolidated district, 1930-32, p 21; signing of petition for annexation, 1932-34, p 138; neither dissolved district nor new consolidated district as able to issue bonds to refund indebtedness of dissolved district, 1936-38, p 166; effect of change in channel of Willamette River upon boundary between two districts, 1936-38, p 473; levy for payment of outstanding bonded indebtedness of abandoned district divided among others, 1938-40, p 498; effect of consolidation of cities on districts contained in the cities, 1942-44, p 273; applicability of statutes providing for formation of districts within boundaries of existing districts, but excluding part of same, where land to be excluded consists of federal defense housing projects, 1942-44, pp 409, 437; districts consolidated in accordance with this section as coming immediately into the new organization, 1944-46, p 146; authority of board to vary the boundaries from those as requested in a petition for the change of boundaries of a district, 1946-48, p 177; when concurrence of boundary board required where boundaries of districts lying in two or more counties are to be changed, 1946-48, p 362; procedure where a district petitions to have part of its district annexed to a district lying entirely within a different county, 1946-48, p 486; power of board to change boundaries of a district so as to exclude parts of it originally included, 1946-48, p 525; annexing part of a district to another district without an election, 1946-48, p 539; effect of a petition for annexation on a pending consolidation of the same area, 1948-50, p 155; remedies of persons aggrieved by action of the district boundary board, 1948-50, p 264; school privileges of children in area which became a military reservation for a period of time and later was given to the state, 1948-50, p 458.

330.080

NOTES OF DECISIONS

The legislature may delegate to the district boundary board authority to establish, change the boundaries of or abolish school districts. *Evans v. Hurlburt*, (1926) 117 Or 274, 243 P 553; *School Dist. 68 v. Hoskins*, (1952) 194 Or 301, 240 P2d 949.

The laying off of boundaries for school districts does not constitute business of the county court. *Magill v. French*, (1915) 76 Or 237, 240, 148 P 878.

ATTY. GEN. OPINIONS: Change in boundaries of districts

solely for tax purposes, 1954-56, p 166; district attorney advising county school superintendent and rural school boards, 1960-62, p 217; district attorney as legal adviser of district boundary board, 1960-62, p 316; number of petitioners required, 1962-64, p 383.

330.090

NOTES OF DECISIONS

The board was without authority to consider the boundary change. *Union High Sch. Dist. 1 v. Linn County Dist. Boundary Bd.*, (1966) 244 Or 207, 416 P2d 656.

FURTHER CITATIONS: *Harvey Aluminum v. Sch. Dist. 9*, (1965) 239 Or 571, 399 P2d 149.

ATTY. GEN. OPINIONS: Qualification of signer, 1964-1966, p 26; construing procedure for boundary changes, 1966-68, p 490.

330.095

NOTES OF DECISIONS

See also ORS 330.110.

1. Under former similar statute

Failure to submit the question of a proposed consolidation of two districts to the voters of one of such districts was a jurisdictional defect. *School Dist. 1 v. Sch. Dist. 45*, (1934) 148 Or 554, 37 P2d 873.

A consolidated district was at least a de facto corporation although petitions and notices of election in outlying districts, which stated that the purpose was to vote on the question of consolidating with a specified district, failed to mention the other districts. *State v. Sch. Dist. 23*, (1946) 179 Or 441, 172 P2d 655.

Where the meeting and the polls were not kept open during the hours as stated in the notice and a registered voter was denied the right to vote, if the result was affected thereby, the election was invalid. *Webb v. Clatsop County Sch. Dist. 3*, (1950) 188 Or 324, 215 P2d 368.

ATTY. GEN. OPINIONS: Procedure when two or more districts composing union high school district are consolidated, effect of consolidation upon union high school district, 1920-22, p 602; presentation of petition for consolidation of adjacent school districts, 1930-32, p 253; considering second petition for formation of consolidated district while first petition pending, 1930-32, p 256; necessity for district which approved consolidation with a nonapproving district at election under first petition to hold another election under a second petition, 1932-34, p 703; property qualifications for voters at school elections, 1934-36, p 428; consolidated districts as subject to provision of statutes relative to changing boundaries by the district boundary board, 1936-38, p 325.

Authority of districts becoming consolidated to defer consolidation until the "beginning of the next fiscal school year" and to dispose of school property pending reorganization, 1944-46, p 146; when two regular school districts, formerly parts of a non-high school district, are consolidated with a regular school district maintaining a high school, authority of the non-high school district to distribute to the consolidated district any portion of the funds realized from taxes levied by the non-high school district and not apportioned to the two regular districts before their consolidation, 1944-46, p 351; omission to state time of closing election in notice, authority of boundary board to declare election invalid, 1946-48, p 280; designating "purpose" of consolidation in petition and notices as surplusage, 1946-48, p 487; status of consolidation election when less than 50 legal voters sign petition in second class district, 1948-50, p 39; effect of a petition for annexation on a pend-

ing consolidation of the same area, 1948-50, p 155; powers of district boundary boards relating to dismissal of a consolidation petition and postponement of elections, 1954-56, p 53.

330.101

NOTES OF DECISIONS

Under former similar statute the legislature was not limited to procedures for initiative elections in general in providing for school elections. *Hansell v. Douglass*, (1963) 234 Or 315, 380 P2d 977, app. dis., 375 US 396, 84 S Ct. 452, 11 L Ed 2d 412.

Irregularities in election proceedings under former similar statute, sufficient to void an election, had to be such as actually changed the result of the election. *Id.*

FURTHER CITATIONS: *School Dist. 7 v. Weissenfluh*, (1963) 236 Or 165, 387 P2d 567; *Union High Sch. Dist. 1 v. Linn County Dist. Boundary Bd.*, (1966) 244 Or 207, 416 P2d 656.

ATTY. GEN. OPINIONS: Time for filing remonstrance, 1962-64, p 299; qualification of signer, 1964-66, p 26; clarifying status of Over-the-Top district, Linn County, 1964-66, p 233; construing procedure for boundary changes, 1966-68, p 490.

330.113

ATTY. GEN. OPINIONS: Tax base after consolidation of districts, 1958-60, p 246; tax-levying procedures, 1958-60, p 246.

330.123

NOTES OF DECISIONS

Under a former similar statute, the county superintendent alone had no right to make a division of assets of the district divided by 1895 p 442, changing the boundaries of the City of Portland. *School Dist. 2 v. Lambert*, (1895) 28 Or 209, 42 P 221.

The validity of the creation of a district cannot be raised as a defense to a mandamus proceeding brought by such district to compel a division of assets and liabilities. *School Dist. 115 v. Sch. Dist.*, (1898) 34 Or 97, 55 P 98.

If the proceeds of a special tax for building and repairing collected before the division was a trust fund, it would still be impressed with the trust in the hands of the new district and its payment to the new district would not be a diversion contrary to Ore. Const. Art. IX, §3, providing that a tax shall be applied to its object only. *School Dist. 61 v. Sch. Dist. 32*, (1909) 53 Or 33, 98 P 523.

The legislature may authorize a division of the property of a divided district without giving a right of review as to the correctness or justness of such division. *School Dist. 48 v. Sch. Dist. 115*, (1911) 60 Or 38, 118 P 169.

Providing that the arbitrator's decision is to be final, except that it may be reviewed by writ of review, was not unconstitutional under Ore. Const. Art. I, §10, providing legal remedies for all persons. *Id.*

ATTY. GEN. OPINIONS: Requirement for division of assets and liabilities as applicable where a portion of territory is taken from one district and given to another, 1922-24, p 563; applicability of statutes providing for formation of districts within boundaries of existing districts, but excluding part of same, where land to be excluded consists of federal defense housing projects, 1942-44, pp 409, 437; applicability of this section to the consolidation of two regular school districts and a union high school district, 1944-46, p 18; applicability of this section to several non-high school

districts organized into a union high school district, 1944-46, p 89; division of assets and liabilities when part of district is annexed by a city, 1948-50, p 53; liability of area annexed to a city for outstanding bond issue of district it was part of before annexation, 1948-50, p 391; failure to appoint arbitrator, 1962-64, p 124; clarifying status of Over-the-Top district, Linn County, 1964-66, p 233.

330.310

ATTY. GEN. OPINIONS: Authority of Klamath Falls Union High School District to consolidate with elementary and county unit districts, 1960-62, p 249.

330.505 to 330.780

ATTY. GEN. OPINIONS: Assets of reorganized school district, 1960-62, p 92; number and election of members of administrative school board when reorganization plan does not include boundary change or zoning, 1960-62, p 92.

330.505

CASE CITATIONS: Grant v. Sch. Dist. 61, (1966) 244 Or 131, 415 P2d 165; Union High Sch. Dist. 1 v. Linn County Dist. Boundary Bd., (1966) 244 Or 207, 416 P2d 656.

ATTY. GEN. OPINIONS: Concurrence of rural school boards in joint district agreements, 1962-64, p 17; abolishing administrative school district, 1962-64, p 57; reorganization in Klamath County, 1962-64, p 394.

330.530

CASE CITATIONS: Stanbury v. Smith, (1962) 233 Or 24, 377 P2d 8.

ATTY. GEN. OPINIONS: Status of joint school districts in counties adopting county unit system, 1958-60, p 134; reorganization involving territory in two or more counties, 1958-60, p 257; number and election of members of administrative school board when reorganization plan does not include boundary change or zoning, 1960-62, p 92; assets of reorganized school district, 1960-62, p 205; arbitration in formation of a joint district, 1962-64, p 10; concurrence of rural school boards in joint district agreements, 1962-64, p 17; consideration of subsequent petitions, 1962-64, p 144; designation of location of administrative school district, 1962-64, p 224; successor to office when elected director moves before qualifying, 1962-64, p 234; board consideration of conflicting petitions, 1962-64, 299; necessity of concurrence of respective rural school boards to formation of a joint district after appointment of an arbitration board, 1962-64, p 305; responsibility of state board to consider legal aspects of plan, 1962-64, p 348; more than one administrative school district, zoning the district, 1962-64, p 394; number of directors to be elected to board, 1966-68, p 544.

330.540

CASE CITATIONS: Stanbury v. Smith, (1962) 233 Or 24, 377 P2d 8.

ATTY. GEN. OPINIONS: Assets of reorganized school district, 1960-62, p 205.

330.550

CASE CITATIONS: Stanbury v. Smith, (1962) 233 Or 24, 377 P2d 8.

ATTY. GEN. OPINIONS: Consideration of subsequent petitions, 1962-64, p 144; altering plan after hearing, 1962-64, p 394.

330.552**NOTES OF DECISIONS**

The arbitrators had no authority to delegate the making of the decision to the voters. Voth v. Fisher, (1965) 241 Or 590, 407 P2d 848.

ATTY. GEN. OPINIONS: Arbitration in formation of a joint district, 1962-64, p 10; concurrence of rural school boards in joint district agreements, 1962-64, p 17; necessity of concurrence of respective rural school boards to formation of a joint district after appointment of an arbitration board, 1962-64, p 305.

330.555

ATTY. GEN. OPINIONS: Zoning administrative school districts, 1962-64, p 394.

330.560

CASE CITATIONS: Stanbury v. Smith, (1962) 233 Or 24, 377 P2d 8.

ATTY. GEN. OPINIONS: Hearing and election on changes proposed by rural school board, 1960-62, p 440.

330.565**NOTES OF DECISIONS**

The state board could not act on the plan submitted without first determining that the jurisdictional requirements of the statute had been complied with. Voth v. Fisher, (1965) 241 Or 590, 407 P2d 848.

ATTY. GEN. OPINIONS: Responsibility of state board to consider legal aspects of plan, 1962-64, p 348.

330.570

ATTY. GEN. OPINIONS: Responsibility of state board to consider legal aspects of plan, 1962-64, p 348.

330.585

ATTY. GEN. OPINIONS: Number and election of members of administrative school board when reorganization plan does not include boundary change or zoning, 1960-62, p 92; counting vote in common school districts, 1960-62, p 406; hearing and election on changes proposed by rural school board, 1960-62, p 440; more than one administrative school district, 1962-64, p 394.

330.587

ATTY. GEN. OPINIONS: More than one administrative school district, 1962-64, p 394.

330.590

ATTY. GEN. OPINIONS: Hearing and election on changes proposed by rural school board, 1960-62, p 440; more than one administrative school district, 1962-64, p 394.

330.595

ATTY. GEN. OPINIONS: More than one administrative school district, 1962-64, p 394.

330.598

ATTY. GEN. OPINIONS: Counting vote in common school districts, 1960-62, p 406; noncontiguous area within one "common school district," more than one administrative school district, 1962-64, p 394.

330.601

ATTY. GEN. OPINIONS: Counting vote in common school districts, 1960-62, p 406; more than one administrative school district, 1962-64, p 394.

330.603

ATTY. GEN. OPINIONS: Counting vote in common school districts, 1960-62, p 406; more than one administrative school district, 1962-64, p 394.

330.605

ATTY. GEN. OPINIONS: Counting vote in common school districts, 1960-62, p. 406; more than one administrative school district, 1962-64, p 394.

330.607

ATTY. GEN. OPINIONS: More than one administrative school district, 1962-64, p 394.

330.609

ATTY. GEN. OPINIONS: More than one administrative school district, 1962-64, p 394.

330.610

ATTY. GEN. OPINIONS: Recourse of common school district to subsequent election on new plan of reorganization, 1960-62, p 77; more than one administrative school district, 1962-64, p 394.

330.640

ATTY. GEN. OPINIONS: Status of joint school districts in counties adopting county unit system, 1958-60, p 134; reorganization involving territory in two or more counties, 1958-60, p 257.

330.660

ATTY. GEN. OPINIONS: Withdrawal of regular school district as dissolving union high school district, 1958-60, p 269; determination of tax base of administrative school district, 1958-60, p 326; effect on administrative school district of teachers' contracts entered into by component districts, 1958-60, p 334; assets of reorganized school district, 1960-62, p 205; serial levies approved before formation of administrative school districts, 1962-64, p 394.

330.680

ATTY. GEN. OPINIONS: Number and election of members of administrative school board when reorganization plan does not include boundary change or zoning, 1960-62, p 92; zoning administrative school districts, 1962-64, p 394.

330.690

ATTY. GEN. OPINIONS: Number and election of members of administrative school board when reorganization plan does not include boundary change or zoning, 1960-62, p 92; successor to office when elected director moves before qualifying, 1962-64, p 234; zoning administrative school districts, 1962-64, p 394.

330.700

ATTY. GEN. OPINIONS: Number and election of members of administrative school board when reorganization plan does not include boundary change or zoning, 1960-62, p 92; zoning administrative school districts, 1962-64, p 394.

330.720

ATTY. GEN. OPINIONS: Effect on administrative school district of teachers' contracts entered into by component districts, 1958-60, p 334.

330.775

ATTY. GEN. OPINIONS: Duty of county in furnishing office for administrative district superintendent, 1964-66, p 324.