
II. Oregon Laws and Rules Governing Conservation Districts

A. Enabling Legislation

1. Definitions

Oregon conservation districts are political subdivisions of state government but are not state agencies. Conservation districts are considered municipal corporations, a form of local government that is required to follow many of the same laws that govern state agencies.

Statute: A law enacted by the legislative assembly of a nation or state.
– *Webster's Dictionary*

Administrative Rule: A directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy or describes an agency's procedure or practice requirements.
– *Oregon Attorney General's Administrative Law Manual*

2. Oregon Revised Statutes, Chapter 568

The primary statutes relating to formation and governance of Oregon Soil and Water Conservation Districts are contained in Oregon Revised Statutes (ORS) Chapter 568.

The complete text of these statutes is available in the *Oregon Soil and Water Conservation District Laws* book (<http://www.oregon.gov/ODA/SWCD/laws.shtml>).

A listing of these statutes follows:

SOIL AND WATER CONSERVATION DISTRICTS; WATER QUALITY MANAGEMENT

GENERALLY

<p>568.210 Definitions for ORS 568.210 to 568.808 and 568.900 to 568.933</p> <p>568.225 Policy</p> <p>568.300 Petition for formation of district; contents; consolidation of petitions</p> <p>568.310 Notice of hearing; questions considered</p> <p>568.320 Owner and interested parties have right to be heard; subsequent notice and hearings</p> <p>568.330 Determination of need for district; factors considered in determination; territory need not be contiguous</p> <p>568.340 Determination of no need for district; subsequent petitions may be filed</p> <p>568.350 Referendum; purpose</p> <p>568.360 Referendum ballot; contents</p> <p>568.370 Eligible electors</p> <p>568.380 Department to pay expenses and supervise hearings and referenda; informalities in referendum</p> <p>568.390 Referendum results; majority required for creation of district</p> <p>568.400 Appointment of first directors of district</p> <p>568.410 Formation of district</p> <p>568.420 Certificate of organization by Secretary of State; boundaries of district</p> <p>568.430 Petitions for inclusion or withdrawal of territory; form; eligible electors</p> <p>568.435 Boundary change notice for taxation purposes</p> <p>568.440 District legally established; certificate as evidence</p> <p>568.445 Petitions for inclusion of territory wholly within another district; approval or disapproval by directors and department</p> <p>568.450 Procedure for consolidating districts</p> <p>568.460 Referendum; eligible electors; majority required</p> <p>568.470 Effect of consolidation on several districts</p> <p>568.480 Petition and referendum for discontinuance of district</p> <p>568.490 Directors to wind up affairs and dispose of property; application and certificate to Secretary of State</p> <p>568.500 Certificate of dissolution; effect</p> <p>568.510 Proceedings for discontinuance limited</p>	<p>568.515 Termination of inactive district's existence</p> <p>568.520 Petitions nominating directors; regular elections</p> <p>568.530 Nominees' names placed on referendum ballot</p> <p>568.540 Votes necessary to elect directors</p> <p>568.542 Payment of expenses for director election from county funds</p> <p>568.545 Procedure for selection of directors of consolidated districts; selection of officers</p> <p>568.550 General powers of directors; erosion control covenants; interagency cooperation</p> <p>568.552 Power of directors to manage and control water resources and projects; authority of Water Resources Commission</p> <p>568.554 District to submit program and work plans for department review</p> <p>568.555 Name of district may be changed</p> <p>568.560 Number of directors; officers; election; terms; vacancies</p> <p>568.565 Procedure for reducing number of directors</p> <p>568.570 Majority constitutes a quorum</p> <p>568.580 Annual meeting</p> <p>568.590 Notice of annual meeting</p> <p>568.600 Legal counsel; delegation of powers; assistance to department</p> <p>568.610 Records; audits</p> <p>568.620 Consultation with county or municipal representatives</p> <p>568.630 Directors may formulate land-use regulations; public meetings</p> <p>568.640 Referendum on land-use regulations; notice; form of regulations; proposed regulations available for inspection</p> <p>568.650 Contents of referendum ballot; referendum governed by directors; landowners eligible to vote</p> <p>568.660 Votes necessary for approval; effect of regulations when adopted</p> <p>568.670 Landowner may petition for amendment or repeal; procedure; referenda limited</p> <p>568.680 Scope of regulations; approval by department</p>
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- 568.690 Regulations to be uniform; copies to be available to landowners
- 568.700 Petition to circuit court for enforcement of regulations; contents of petition
- 568.710 Hearing and decree; court may appoint referee; joinder of owner and occupant
- 568.720 Court retains jurisdiction until work completed; statement of expenses; judgment
- 568.730 Officials may enter private lands
- 568.740 Board of adjustment established for each district; membership; appointment; term; disqualification
- 568.750 Vacancies in board of adjustment; compensation of members; administrative expenses
- 568.760 Rules of board of adjustment; meetings
- 568.770 Petition for relief from regulations; hearing; procedure; board may order variance of regulations; appeal
- 568.780 Certain public agencies to be deemed owners
- 568.790 County funds for personnel and other uses; duties of county extension agent
- 568.801 Stream control and management projects; application; designation and implementation; rules
- 568.803 General obligation bonds; refunding bonds; special taxes
- 568.805 Special assessments; improvement bonds; objections by landowners
- TAX LEVYING AUTHORITY**
- 568.806 Ad valorem tax; budget; collection
- 568.807 Electors authorizing taxation; election date
- 568.808 Taxing district to file legal description and map
- WIND EROSION CONTROL**
- 568.810 Purpose of ORS 568.810 to 568.890; types of wind erosion
- 568.820 Designation of areas by county court upon petition; description of boundaries
- 568.830 Publication and posting of notices describing districts; when regulations are enforced
- 568.840 Election of advisory board; meetings; members; functions
- 568.850 Wind erosion inspector; appointment; duties; appeal from decision; compensation; expenses
- 568.860 Inspector may enter lands in district; service of notice on owner or occupant
- 568.870 County court may authorize inspector to control erosion; expenses of control
- 568.880 Tax levy for wind erosion control
- 568.890 District may be dissolved; disposition of district funds; change of district boundaries
- AGRICULTURAL WATER QUALITY MANAGEMENT**
- 568.900 Definitions for ORS 568.900 to 568.933
- 568.903 "Landowner" defined
- 568.906 Plan implementation to involved local agencies
- 568.909 Boundaries for land subject to water quality plans; implementation of plan and rules
- 568.912 Management plan rules; required actions under rules; prohibiting specific practices; landowner appeals
- 568.915 Entry upon land; purpose; consultation with Department of Justice; notice to landowners
- 568.918 Notice to landowner of failure to perform requirements
- 568.921 Fees from landowners
- 568.924 Interagency agreements
- 568.927 Law inapplicable to certain forest practices
- 568.930 Agricultural activities subject to plan requirements; consultation with Environmental Quality Commission; review and revision of plans
- 568.933 Civil penalties availability; reductions

3. District Powers and Authorities

The general powers and authorities of conservation districts in Oregon are described in ORS 568.550:

ORS 568.550 General powers of directors; erosion control covenants; interagency cooperation

(1) The directors of a soil and water conservation district have the following powers subject to the written approval of the State Department of Agriculture:

- (a) To secure surveys and investigations and do research relating to:
 - (A) The character of soil erosion;
 - (B) The character of floodwater and sediment damage;
 - (C) All phases of the conservation, development, utilization and disposal of water; and
 - (D) The preventive measures, control measures and improvements needed.

(b) To conduct demonstrational projects on lands within the district upon obtaining the consent of the owner and occupier of such lands.

(c) To carry out preventive and control measures on lands within the district upon obtaining the consent of the owner and occupier of such lands.

(d) To enter into written agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier, or both of them, of lands within the district, for the purpose of carrying on soil erosion control and prevention operations within the district.

(e) To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest or devise any property, real or personal or rights or interests therein, to maintain, administer and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of ORS 568.210 to 568.808 and 568.900 to 568.933, and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of ORS 568.210 to 568.808 and 568.900 to 568.933.

(f) To borrow money and to mortgage personal property of the district as security therefor, provided that landowners are given an opportunity to be heard at a public hearing in the district, notice of which shall be given according to rules prescribed by the department.

(g) To issue general obligation bonds of the district as provided in ORS 568.803.

(h) To make available, on such terms as the directors shall prescribe, to landowners or occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings and other material or equipment.

(i) To construct, operate and maintain such structures as may be necessary or convenient for performance of any of the operations authorized in ORS 568.210 to 568.808 and 568.900 to 568.933.

(j) To develop comprehensive plans and specifications for the conservation of soil resources and for the continued control and prevention of soil erosion within the district, and to publish such plans, specifications and information and bring them to the attention of owners and occupiers of lands within the district.

(k) To take over, by purchase, lease or otherwise, and to administer, any soil conservation, erosion control or erosion prevention project, or combination thereof, located within district boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies.

(l) To manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil conservation, erosion control or erosion prevention project, or combination thereof, within district boundaries.

(m) To act as agent for the United States or any of its agencies, in connection with the acquisition, construction, operation or administration of any soil conservation, erosion control or erosion prevention project, or combination thereof, within district boundaries.

(n) To accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations.

(o) To sue and to be sued in the name of the district, to have a seal, which shall be judicially noticed, to have perpetual succession unless terminated as provided by law, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and to make, and from time to time amend or repeal, rules not inconsistent with ORS 568.210 to 568.808 and 568.900 to 568.933 to carry into effect its purposes and powers.

(p) To purchase liability or indemnity insurance, in such amounts and containing such terms and conditions as they may deem necessary, for the protection of directors, officers and employees of the district against claims against them incurred by such directors, officers and employees in the performance of their official duties. The premiums for such insurance shall be paid out of moneys available for expenditure by the district.

(2) As a condition to the extending of any benefits under ORS 568.210 to 568.808 and 568.900 to 568.933 to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits, and may require landowners or occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(3) In order to avoid duplication of activities under subsection (1)(a) of this section, the department may call upon other state and federal agencies for assistance and cooperation in their fields in accordance with memoranda of understanding to be signed by all cooperating agencies.

4. Related Statutes and Administrative Rules

Additionally, conservation districts are subject to the provisions of several other statutes and Oregon Administrative Rules (OARs), including those outlined below. The full text of statutes is available at <http://www.leg.state.or.us/ors/>. The full text of the administrative rules is available at <http://www.sos.state.or.us/archives/banners/rules.htm>.

<i>Description</i>	<i>Law</i>
Agricultural Water Quality Management	ORS 568.900 - 568.933
Auditing Accounts of State & State-Aided Institutions and Agencies	ORS 297.210 - 297.230
Public Borrowing & Bonds Generally	ORS 288.010 - 288.110; 288.150 - 288.165; 288.515 - 288.695
Borrowing & Bonds of Local Governments	ORS 287.001; 287.006 - 287.014; 287.029
Civil Rights of Disabled Persons	ORS 659.405
Conflict of Interest	ORS 244.010 - 244.400
Conservation & Highway Scenic Preservation Easements	ORS 271.715 - 271.795
Archiving of Public Records	ORS 192.005 - 192.190
Entry onto Private Lands	ORS 568.730; 568.915
Equal Opportunity Employment/Sexual Harassment/Discrimination	Title VII - Civil Rights Act of 1964
Formulation of Land Use Regulations	ORS 568.630

<u>Description</u>	<u>Law</u>
Hiring Persons With Disabilities	Americans with Disabilities Act of 1990
Inspection of Public Records	ORS 192.410 - 192.440; 192.501 - 192.505
Intergovernmental Cooperation	ORS 190.003 - 190.110
Local Budget Law - <i>Required of district with a tax levy</i>	ORS 294.305 - 294.565
Local Management Agencies to implement Agricultural Water Quality Management Plans	ORS 568.906
Municipal Audit Law	ORS 297.405 - 297.485
Natural Resources Division (ODA)	ORS 561.400
Nonaggregate Mineral Surface Mines	ORS 517.905 - 517.915
Oath of Office	Oregon Constitution, Art. XV, Sec. 3; ORS 44.320
Property Tax Rates & Amounts; Tax Limitations	ORS 310.010; 310.170; 310.200 - 310.246
Public Contracting	ORS Ch. 279, 279a, 279b and 279c; OAR Ch. 137, Div. 45 - 49
Public Meetings	ORS 192.610 - 192.710
Public Records Policy	ORS 192.001
Records & Reports in English	ORS 192.310
Residency	ORS 247.035
Soil and Water Conservation Commission	ORS 561.395
Special Districts Generally	ORS Ch. 198
Subsistence and Mileage allowances for Travel by State Officers and Employees	ORS 292.210 - 292.288
Taxing Authority	ORS 568.806 - 568.808
Unlawful Employment Practices	ORS 659.010 - 659.990
Water Quality	ORS Ch. 468B
Watershed Management & Enhancement	ORS 541.351 - 541.423
Watershed Protection & Flood Prevention Projects	ORS 542.750

5. Special Districts

All Oregon soil and water conservation districts are classified as special districts under ORS Chapter 198. The majority of SWCDs are members of the Special Districts Association of Oregon (SDAO), through which they receive a variety of resources, consultation, insurance coverage, and training opportunities.

Special Districts Association of Oregon

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B. Oregon's Agricultural Water Quality Management Program

In 1993, the Oregon Legislature adopted Oregon's Agricultural Water Quality Management Program, a.k.a. Senate Bill 1010. It directs the Oregon Department of Agriculture to work with farmers and ranchers to develop and implement area water quality management plans for the prevention and control of water pollution from agricultural activities and soil erosion. This program is a principal strategy of agriculture to respond to the federal Clean Water Act, Coastal Zone Management Act, and Endangered Species Act, as well as the Oregon Plan for Salmon and Watersheds and other natural resource conservation mandates. The program is found in statute at ORS 561.190 and ORS 568.900 - 568.933.

Soil and water conservation districts are essential partners with the department and private landowners in implementing the Agricultural Water Quality Management Program. The department enters into interagency agreements with districts to provide assistance in implementing Agricultural Water Quality Management area plans. Soil and water conservation districts provide assistance to landowners in evaluating their property and implementing conservation measures. Districts also help landowners access technical and financial resources through NRCS and other local, state, and federal agencies.