

Enrolled
House Bill 3466

Sponsored by Representative DINGFELDER (at the request of John McDonald)

CHAPTER

AN ACT

Relating to conservation districts; creating new provisions; and amending ORS 568.520, 568.530, 568.540, 568.545, 568.560 and 568.565.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 568.520 is amended to read:

568.520. (1) Within 30 days after the hearings on creation or consolidation of districts as provided in ORS 568.300 and 568.450, but not later than a date set by the State Department of Agriculture, nominating petitions may be filed with the department to nominate candidates for directors of such district. *[Notwithstanding the provisions of ORS chapter 255, the provisions of ORS 568.530, 568.540, 568.545, 568.560 and this section apply to the election of directors of a district.]*

(2) A regular election shall be held in each district on the first Tuesday following the first Monday of November in each even-numbered year for the purpose of electing directors to succeed those whose terms expire the following January. Nominating petitions of candidates for director to be voted for at a general district election shall be filed with the department no later than a date set by the department.

(3) The department may extend the time within which nominating petitions may be filed.

(4) *[No such nominating petition shall be accepted by the department.]* **The department may not accept a nominating petition** unless it is subscribed by 10 or more electors residing within the boundaries of *[such]* **the** district.

(5) Electors residing within the boundaries of the district may sign more than one *[such]* nominating petition to nominate more than one candidate for director.

(6) **To the extent of any conflict between ORS chapter 255 and the provisions of ORS 568.530, 568.540, 568.545 and 568.560 and this section, the provisions of ORS 568.530, 568.540, 568.545 and 568.560 and this section control. Elections officers, as defined in ORS 255.005, are not responsible for delivering, preparing or publishing information concerning district elections. The department shall timely distribute and collect the forms established by the Secretary of State for updating information on members of district boards, including, but not limited to, any forms for information concerning the district offices to be filled or for which candidates are to be nominated or elected, or for information concerning the candidates. The department shall timely prepare and publish notice of the date for filing *[such]* nominating petitions and the *[time]* date of the election *[shall be published]* in a newspaper of general circulation within the district *[at least]* no later than 30 days before **the final** filing date. **The department shall retain the information forms and publication information for not less than four years after the election for which the forms and publication were completed.****

SECTION 2. ORS 568.530 is amended to read:

568.530. (1) The names of all nominees for director on behalf of whom such nominating petitions have been filed with the State Department of Agriculture within the time designated as provided by ORS 568.520 shall be furnished by the department to the county clerk of the respective counties lying within the district not less than the 61st day before the date of the general election. Ballots shall be printed, voted, counted and canvassed in conformity with the provisions of general law relating to elections, except as otherwise provided by **subsections (2) to (4) of this section** or ORS 568.210 to 568.808 and 568.900 to 568.933.

(2) If no nominee for a position qualifies under subsection (1) of this section to have the name of the nominee furnished to the county clerk for placement on the ballot, the position becomes open for write-in votes on the ballot. An elector who meets the qualifications to become a director of the district in a position for which no candidate qualifies under subsection (1) of this section may file with the department a declaration of intent and request for write-in votes to be tallied. The person must file the declaration and request no later than 14 days before the date of the election. The declaration and request must certify that the person is legally qualified to assume the duties of director and desires the position.

(3) Upon receipt of a declaration and request filed under subsection (2) of this section, the department shall take actions the department deems necessary to determine whether the person filing the declaration and request is an elector who meets the qualifications to become a director of the district. If the department determines that the person is an elector who meets the qualifications, the department shall notify the county clerk to count the write-in votes for the person.

(4) If no nominee for a position qualifies under subsection (1) of this section to have the name of the nominee furnished to the county clerk for placement on the ballot and no person filing a declaration and request for the position qualifies under subsection (3) of this section to have the county clerk count the write-in votes for that person, the county clerk may not count any write-in votes cast for any person for the position. If no nominee for a position qualifies under subsection (1) of this section to have the name of the nominee furnished to the county clerk for placement on the ballot and no person filing a declaration and request for the position qualifies under subsection (3) of this section to have the county clerk count write-in votes for the person, the local governing body of the district shall appoint a person to each position that was not filled at the election.

SECTION 3. ORS 568.540 is amended to read:

568.540. The three candidates **nominated under ORS 568.520** who receive the largest number, respectively, of the votes cast in the election shall be elected directors for the district.

SECTION 4. ORS 568.545 is amended to read:

568.545. (1) Notwithstanding ORS 568.470, when districts are consolidated, all directors continue to serve until directors for the consolidated district are elected as provided in this subsection. Not later than 30 days after the date of issuance of the certificate referred to in ORS 568.470, the boards of the districts consolidated shall hold a joint meeting. At the joint meeting, a majority of all the directors of all the districts affected constitute a quorum for the transaction of business. The directors so assembled shall elect seven persons from among their number to serve as directors of the consolidated district. The term of office of the directors elected as provided in this subsection shall be as provided in ORS 568.560 [(3)(c)] **(5)(c)**. The number of directors of a consolidated district may be reduced to five in the manner provided in ORS 568.565.

(2) The directors elected as provided in subsection (1) of this section shall select a chairperson, secretary and other necessary officers and select a regular date for the annual and other meetings.

SECTION 5. ORS 568.560 is amended to read:

568.560. (1) The local governing body of the district shall consist of not [less] **fewer** than five nor more than seven directors who are elected **or appointed** as provided by law. To [insure] **ensure** proper representation of all the people in the district and to facilitate district functions, the State Department of Agriculture shall provide for the zoning of each district, and shall provide each time directors are elected **or appointed** for the proper and equitable representation for each zone.

(2) Not more than two *[of such]* directors may fill at-large positions. At-large directors must reside within the district and be registered voters.

(3) Zone directors must own or manage 10 or more acres of land in the district, be involved in the active management of the property, reside within the boundaries of the district and be registered voters. Zone directors may either reside within the zone that is represented or own or manage 10 or more acres within the zone that is represented and be involved in the active management of the property. An individual may also serve as a zone director when the individual, in lieu of the other requirements specified in this subsection, resides within the zone that is represented and indicates an interest in natural resource conservation as demonstrated by serving at least one year as a director or associate director of a district and having a conservation plan that is approved by the district. Candidates nominated for director from a specific zone shall be voted on by all electors within the district.

[(2)] (4) The directors shall designate a chairperson, secretary and other officers as necessary and may, from time to time, change such designation.

[(3)] (5) The term of office of each director shall be four years, except that:

(a) Of the directors first appointed under ORS 568.400, not less than one nor more than two shall serve until January first following the first general election following their appointment, and not less than one nor more than two shall serve until January first following the second general election following their appointment, as determined by the department, and thereafter, their successors shall be elected as provided by law for other elected directors.

(b) Of the directors elected as provided in ORS 568.540, one shall serve until January first following the first general election, and two shall serve from the date of the first annual election until January first following the second general election, as determined by them by lot at the first meeting of directors after creation or consolidation of the district.

(c) Of the directors first elected as provided in ORS 568.545 (1), three shall serve until January first following the first general election, and four shall serve until January first following the second general election after the date of their election, as determined by them by lot at the meeting referred to in ORS 568.545 (1).

(d) Of the directors first elected as provided in ORS 568.565, three shall serve until January first following the first general election and two shall serve until January first following the second general election, after the date of their election, as determined by them by lot at the meeting referred to in ORS 568.565.

[(4)] (6) A director shall hold office until a successor has been elected **or appointed**, *[and]* has qualified **and has taken the oath of office** or until the office *[has been declared vacant by the department pursuant to subsection (5)]* **becomes vacant under subsection (7)** of this section. Any vacancy occurring in the office of director shall be filled as provided by *[ORS 198.320]* **subsection (8) of this section.**

(7) A director position becomes vacant under the following circumstances:

[(5)] (a) **The department**, upon the written recommendation of a majority of the members of the local governing body of a district, *[the department]* may declare vacant the position of *[any]* a director who is absent from three consecutive meetings of the local governing body of the district. **A position becomes vacant under this subsection upon the issuance of the declaration by the department.**

(b) **No nominee for the position qualifies under ORS 568.530 to have the name of the nominee furnished to the county clerk for placement on the general district election ballot and no person qualifies under ORS 568.530 to have write-in votes counted. A position becomes vacant under this paragraph on January 1.**

(c) **The department determines that a candidate receiving the most votes at an election does not qualify under this section to hold the position. A position becomes vacant under this paragraph on January 1 next following the election at which the unqualified candidate was elected unless an appointee to the position has been selected under subsection (8) of this section.**

(d) A director serving in a position no longer qualifies under this section to hold the position. A position becomes vacant under this paragraph upon the department's declaration that the person no longer qualifies for the position.

(e) A director resigns from a position. A position becomes vacant under this paragraph upon the department's receiving notice of the resignation.

(f) A candidate who received the most votes at an election, or an appointee, refuses to take the oath of office as a director.

(8) A director position that becomes vacant before the scheduled expiration of a term shall be filled by appointment by a majority of the remaining directors. However, if a majority of the director positions are vacant or if the remaining directors cannot agree on an appointee, the department shall make an appointment to fill the position.

(9) An appointment under subsection (8) of this section shall end on January 1 next following the first general district election held after the appointment. If the appointment ends under this subsection before the January 1 that would normally complete the four-year term of office for the position, the position shall be placed on the ballot at the next general election as provided under ORS 568.530 to fill the position for the remainder of the four-year term.

SECTION 6. ORS 568.565 is amended to read:

568.565. (1) Upon the written recommendation of the local governing body of a district having seven directors, the number of directors of such governing body may be reduced from seven to five by holding a meeting of the governing body at which the directors elect five persons from among their number to serve as directors of the district. The term of office of the directors elected pursuant to this section shall be as provided in ORS 568.560 [(3)(d)] (5)(d).

(2) Upon the written recommendation and majority vote of the local governing body of a district having five directors, the number of directors for the district may be increased to seven. Notwithstanding any unexpired term of office to which a member may have been elected, all five zone positions shall be placed on the ballot at the next following general election. The department shall determine the terms of office for the positions as provided in ORS 568.560 (5)(d). Any vacancy that occurs in a zone position shall be filled as provided under ORS 568.560.

SECTION 7. The amendments to ORS 568.520, 568.530 and 568.560 by sections 1, 2 and 5 of this 2007 Act apply to director positions filled on or after the effective date of this 2007 Act.

Passed by House May 1, 2007

Repassed by House May 30, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 24, 2007

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President of Senate

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State