

trict, the district shall deposit 10 percent of any revenues derived from the sale of excess electric energy under ORS 543.660 with the officer serving as the treasurer of the district to be credited to a special fund designated its Weatherization Fund. Moneys in the fund shall be expended upon written order of the board of directors for the sole purpose of accomplishing weatherization of buildings owned by the district.

(2) As used in this section, "weatherization" means the installation of materials, equipment or fixtures designed primarily to improve the efficiency of space heating and energy utilization of a building. [1981 c.420 §8]

### POWER DEVELOPMENT FEES

**543.705 Definitions for ORS 543.710 to 543.730.** As used in ORS 543.710 to 543.730, "claimant" means any person claiming the right to the use of water for power development. [1957 c.333 §1]

**543.710 Annual fee based on horsepower; exemptions; disbursement.** Every claimant other than a licensee under ORS 543.010 to 543.610 shall on or before January 1 of each year pay to the state in advance an annual fee based upon the theoretical water horsepower claimed under each separate claim to water, graduated as follows: Thirty cents for each theoretical water horsepower or fraction thereof up to and including 50 and 28 cents for each theoretical water horsepower or fraction thereof in excess of 50. However, upon filing the statement provided in ORS 543.720, the United States or the state, claiming the right to the use of water to any extent for the generation of power, or any other claimant to the right to use water for the generation of 10 theoretical water horsepower or less, shall be exempted from the payment of all fees provided for in this section. Four cents of each 28 cents collected as an annual fee under this section shall be deposited to the Water Resources Department Hydroelectric Fund and disbursed to the Department of Environmental Quality. [Amended by 1957 c.333 §2; 1965 c.185 §1; 1973 c.163 §5; 1997 c.449 §38; 1999 c.873 §24; 2001 c.104 §229]

**543.720 Payment of annual fee; accompanying statement; penalty for nonpayment of fees or nonfiling; lien; foreclosure; effect of filing excessive claim; computation of horsepower.** (1) The fees provided for in ORS 543.710 shall be paid to the Water Resources Commission in advance, and shall be accompanied by a written statement showing the extent of the claim. The statement shall set forth the name and address of the claimant; the name of the stream from which the water is appropriated or claimed for power development; a de-

scription of the 40 acres, or smallest legal subdivision in which the point of diversion and point of return are located; the date of the right as claimed; the maximum amount of water claimed expressed in cubic feet per second of time; the total average fall utilized under such claim; the manner of developing power; and the use to which the power is applied. If the regular flow is supplemented by water stored in a reservoir, the location of the reservoir, its capacity in acre-feet and the stream from which it is filled and fed, should be given, also the date of the right as claimed, for storage purposes.

(2) If any claimant fails or neglects to file the statement or to pay the fees within the time specified, the fees due and payable shall be the amount specified in ORS 543.710 increased 25 percent. The state shall have a preference lien for the fees due, together with interest at the rate of 10 percent per annum from date of delinquency, upon the property of the claimant used, or necessary for use, in the development of the right or claim, together with any improvements erected on the property for such development. Upon notice from the commission, the Attorney General shall foreclose the lien and collect the amount due, as provided in this section, in the same manner as other liens on real property are foreclosed.

(3) The filing of a claim to water in excess of the amount to which the claimant is legally entitled shall not operate to vest in the claimant any right to the use of such excess water, nor shall the payment of the annual license fee provided for in ORS 543.710 operate to vest in any claimant any right to the use of such water beyond the amount to which claimant is legally entitled. The filing of any such claim to water shall be conclusive evidence as to the abandonment by the claimant of all rights to water for power purposes in excess of the claim as filed.

(4) The amount of theoretical water horsepower upon which fees shall be paid under the provisions of ORS 543.710 and 543.720 shall be computed by multiplying the maximum amount of water claimed, expressed in cubic feet per second, by the average total fall utilized, expressed in feet, and dividing the product by 8.8. [Amended by 1985 c.673 §163]

**543.725** [1985 c.674 §9; repealed by 1991 c.869 §15]

**543.730 Failure to file statement or pay fees as evidence of abandonment of claim; cancellation of claim, permit and water right certificate.** (1) Failure of any claimant for a period of five successive years ending after August 20, 1957, to file the written statement showing the extent of the claim as required by ORS 543.720, or failure