


South Dakota Department of Agriculture

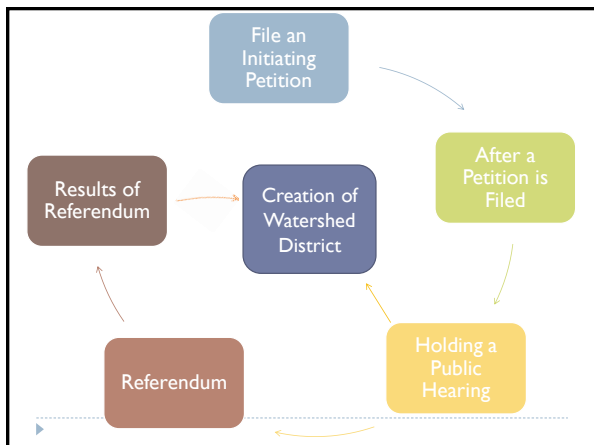
Establishing and Combining Watershed Districts

Presenter: A. Blair Dunn – General Counsel
& Director of Agricultural Policy

Things a Watershed District Can Do:


- (1) Control or allocation of damage by floods by flood prevention structures including levees;
- (2) Improvement of stream channels;
- (3) Reclaiming or filling wet and overflowed lands;
- (4) Providing water supply for irrigation;
- (5) Regulating the flow and conserving the water of streams;
- (6) Diverting or changing watercourses in whole or in part;
- (7) Providing and conserving water supply for domestic, industrial, recreational, and other public use;
- (8) Providing for sanitation and public health and regulating the use of streams, ditches, or watercourses for the disposition of waste;
- (9) Relocate, extend, replace, modify, consolidate, or abandon in whole or in part, drainage systems within a watershed district and to operate and maintain drainage systems;
- (10) Imposition of preventive or remedial measures for the control or alleviation of land and soil erosion and siltation of watercourses or bodies of water affected by erosion.

▶ SDDA – Watershed Districts Source: SDCL 46A-14-4 2 



Filing an Initiating Petition

- ▶ **Petition needs to contain:**
 - ▶ Name of the proposed district;
 - ▶ That there is need for creation of the district;
 - ▶ General terms of purpose, the territory of the district, and proposed subdivisions;
 - ▶ Number of manager and names;
 - ▶ List of landowners and total acreage of land owned by each within the proposed district;
 - ▶ Map of the proposed district;
 - ▶ Location of the official place of business of the proposed district.
- ▶ Initiating petition should be filed with each conservation district in which the proposed watershed district is located.
- ▶ **Petition should be signed by at least 25% of the registered voters within the proposed district.** If the district is in 2 or more counties, a petition shall be filed in each county with at least 25% of registered voters in each county.
- ▶ Accompany petition with a deposit covering the costs of public notices and the conduct of election

▶ SDDA – Watershed Districts Source: SDCL 46A-14-8 4 

Once Petition is Filed

- ▶ County Auditor will ensure sufficient signatures were received
- ▶ Board of Conservation District supervisors will:
 - ▶ acknowledge receipt of petition
 - ▶ prepare preliminary report stating the feasibility and practicality of the proposed district
 - ▶ adjust, as necessary, and fix the boundaries of the proposed district.



Holding a Public Hearing

- ▶ Within 10 days, Board of Conservation District Supervisors will set up an hearing (hearing may be scheduled past 10 days)
- ▶ Board of Conservation District Supervisors will publish notice of the hearing in the local newspaper once a week for at least 2 weeks; the last notice within 10 days before hearing
- ▶ Notice needs to contain: that an initiating petition was filed; general description of the purpose and area of the proposed district; date, time and place of hearing; all persons affected may appear and be heard
- ▶ All persons interested in or affected by the proposed district shall be given the opportunity to be heard. Hearing may be continued, as necessary.
- ▶ If the Board of Conservation District Supervisors feel it is in the public interest to form the proposed district, they shall order a vote



Referendum

- ▶ If less than 60% of the landowners signed the initiating petition, a vote on if a district should be organized shall be ordered.
 - ▶ If 60% or more of the landowners signed the petition, the referendum is unnecessary
- ▶ The Board of Conservation District Supervisors will publish the notice of the voter registration deadline at least once a week for 2 consecutive weeks; last publication not less than 24 hours and no more than 20 days prior to election.
- ▶ The Board of Conservation District Supervisors will publish notice of election at least once each week for 2 consecutive weeks; last publication not less than 4 and no more than 10 days before the election.
- ▶ Vote shall be taken with 60 days of validation of petition.



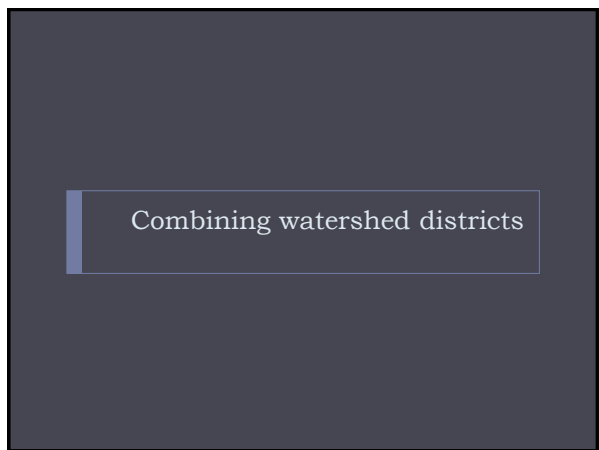
Results of Referendum

- ▶ 60% or more favorable vote needs to be obtained for the proposed district to be organized
 - ▶ If defeated, the proposition may be proposed again in the same manner as the original proposal

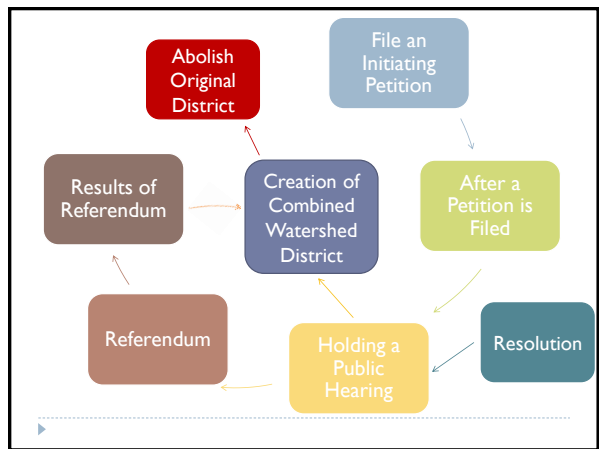


Creation of Watershed District

- ▶ **The Board of Conservation District Supervisors will:**
 - ▶ Give the watershed district a corporate name
 - ▶ File a certified copy of certification of favorable petition or vote and order with the Secretary of State
 - ▶ Send a copy of findings and order should be registered or certified mailed to the managers listed upon the petition



Combining watershed districts



Filing an Initiating Petition to Combine Watershed Districts

- ▶ **Petition needs to contain:**
 - ▶ Name of the proposed district;
 - ▶ That there is need for creation of the district;
 - ▶ General terms of purpose, the territory of the district, and proposed subdivisions;
 - ▶ Number of manager and names;
 - ▶ List of landowners and total acreage of land owned by each within the proposed district;
 - ▶ Map of the proposed district;
 - ▶ Location of the official place of business of the proposed district.
- ▶ Initiating petition should be filed with each conservation district in which the proposed combined watershed district is located.
- ▶ Petition should be signed by at least 25% of the registered voters within the proposed district. If the district is in 2 or more counties, a petition shall be filed in each county with at least 25% of registered voters in each county.
- ▶ Accompany petition with a deposit covering the costs of public notices and the conduct of election, if applicable.



Once Petition is Filed

- ▶ County Auditor will ensure sufficient signatures were received
- ▶ Board of Conservation District supervisors will:
 - ▶ acknowledge receipt of petition
 - ▶ prepare preliminary report stating the feasibility and practicality of the proposed district
 - ▶ adjust, as necessary, and fix the boundaries of the proposed district.



Resolution

- ▶ Watershed district managers may file a resolution stating the desire to combine the watershed districts.
- ▶ Resolution must contain:
 - ▶ Name of the proposed district;
 - ▶ That there is need for creation of the district;
 - ▶ General terms of purpose, the territory of the district, and proposed subdivisions;
 - ▶ Number of manager and names;
 - ▶ List of landowners and total acreage of land owned by each within the proposed district;
 - ▶ Map of the proposed district;
 - ▶ Location of the official place of business of the proposed district.



Holding a Public Hearing

- ▶ Within 10 days, Board of Conservation District Supervisors will set up an hearing (hearing may be scheduled past 10 days)
- ▶ Board of Conservation District Supervisors will publish notice of the hearing in the local newspaper once a week for at least 2 weeks; the last notice within 10 days before hearing
- ▶ Notice needs to contain: that an initiating petition or resolution was filed; general description of the purpose and area of the proposed district; date, time and place of hearing; all persons affected may appear and be heard
- ▶ All persons interested in or affected by the proposed district shall be given the opportunity to be heard. Hearing may be continued, as necessary.
- ▶ If the Board of Conservation District Supervisors feel it is in the public interest to form the proposed district, they shall order a vote



Referendum

- ▶ If less than 60% of the landowners signed the initiating petition, a vote on if a district should be organized shall be ordered.
 - ▶ If 60% or more of the landowners signed the petition, the referendum is unnecessary
- ▶ The Board of Conservation District Supervisors will publish the notice of the voter registration deadline at least once a week for 2 consecutive weeks; last publication not less than 24 hours and no more than 20 days prior to election.
- ▶ The Board of Conservation District Supervisors will publish notice of election at least once each week for 2 consecutive weeks; last publication not less than 4 and no more than 10 days before the election.
- ▶ Vote shall be taken with 60 days of validation of petition.



Results of Referendum

- ▶ 60% or more favorable vote needs to be obtained for the proposed district to be organized
- ▶ If defeated, the proposition may be proposed again in the same manner as the original proposal



Creation of Combined Watershed District

- ▶ The Board of Conservation District Supervisors will:
 - ▶ Give the watershed district a corporate name
 - ▶ File a certified copy of certification of favorable petition or vote and order with the Secretary of State
 - ▶ Send a copy of findings and order should be registered or certified mailed to the managers listed upon the petition



Abolishing Previous Watershed Districts

- ▶ Upon completion of combining watershed districts, the conservation district supervisors shall issue a certification of abolishment.
- ▶ This certification of abolishment should be filed with the Secretary of State at the same time the certification for the new watershed districts is filed.



Additional Questions or Inquiries Please Contact:

South Dakota Dept of Agriculture
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South Dakota Codified Law
Title 6 Local Government Generally
Chapter 16 Special Districts

6-16-1. Elections--Special districts--Board of directors. Sections 6-16-1 to 6-16-7, inclusive, apply to elections for the formation of certain special districts and for the initial election of the board of directors or trustees for these districts. The special districts covered are: county road, ambulance, rural fire protection, sanitary, irrigation, watershed, and water project districts.

Source: SL 1998, ch 36, § 1.

6-16-2. Petition--Number of signatories--Deposit for costs. The application for organization shall be a petition verified by one or more circulators by affidavit stating that each affiant personally witnessed the signatures on the petition and believe the signatures to be genuine. Except as provided in this section, the petition shall be signed by at least twenty-five percent of the registered voters within the proposed district. If the proposed district is in two or more counties, a petition shall be filed in each county and each petition shall be signed by at least twenty-five percent of the registered voters within the proposed district in that county. The petition shall be accompanied by a deposit covering the estimated costs as determined by the county auditor of the public notices and the conduct of the election for the formation of the district. If the district to be formed is a road district that contains no registered voters, the petition shall be signed by at least twenty-five percent of the landowners. If the district to be formed is a water project district, any petition required by this section shall be signed by qualified voters of the proposed district, as defined in §§ 46A-18-2.1 and 46A-18-2.2, in the appropriate county.

Source: SL 1998, ch 36, § 2; SL 1999, ch 151, § 10; SL 2000, ch 32, § 1; SL 2011, ch 35, § 1.

6-16-3. Formation of new district. If the proposed district is in two or more counties, each county auditor and board of county commissioners shall cooperate to perform the requirements of §§ 6-16-1 to 6-16-7, inclusive, and the chapter specific to the formation of that district in setting the date for and conducting the election of the proposed district.

Source: SL 1998, ch 36, § 3.

6-16-4. Notification of deadline. The county auditor shall publish the notice of the voter registration deadline at least once each week for two consecutive weeks, the last publication to be not less than twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of election at least once each week for two consecutive weeks, the last publication to be not less than four nor more than ten days before the election in at least one legal newspaper of general circulation in the proposed district.

Source: SL 1998, ch 36, § 4; SL 2000, ch 32, § 2; SL 2008, ch 35, § 1, eff. Feb. 27, 2008.

6-16-5. Election on question of incorporation in districts containing less than one thousand voters--Election of directors or trustees. If the proposed district contains less than one thousand eligible voters as defined in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within the district to conduct an election on the question of formation of the special district. The date may not be more than sixty days after the appropriate board declares that the application for incorporation is valid. The auditor shall appoint three judges of election, one of whom shall serve as the superintendent, to conduct the election. The vote upon the question of incorporation shall be by ballot which conforms to a ballot for a statewide question except that the

statement required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast and counted, the judges shall prepare a certification showing the whole number of ballots cast, together with the number voting for and the number voting against incorporation, and shall return the certification to the county auditor. If a majority, or if it is a water project district at least sixty percent, of the votes cast on the question of formation is in favor, an election shall be conducted by those present at the same meeting to elect the initial board of directors or trustees.

Source: SL 1998, ch 36, § 5; SL 2006, ch 29, § 3; SL 2008, ch 35, § 2, eff. Feb. 27, 2008; SL 2010, ch 74, § 2.

6-16-5.1. Election on question of incorporation in districts containing one thousand or more voters. If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6, the county auditor shall set a date for an election to be held within the district on the question of formation of the special district. The date may not be more than sixty days after the appropriate board declares that the application for incorporation is valid. The election shall be conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot which conforms to a ballot for a statewide question except that the statement required to be printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed by the county commission.

Source: SL 2008, ch 35, § 4, eff. Feb. 27, 2008.

6-16-5.2. Election of directors or trustees in districts containing one thousand or more voters. If a majority, or if it is a water project district at least sixty percent, of the votes cast in an election conducted pursuant to § 6-16-5.1 is in favor on the question of formation of the special district, an election shall be conducted by the county auditor within sixty days after the official canvass to elect the initial board of directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of nominating petitions may begin upon completion of the official canvass of the election to form the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least thirty days before the election. The nominating petitions shall contain signatures of at least twenty-five registered voters in the district. Absentee ballots shall be made available to the voters no later than twenty days before the date of election. The election shall be canvassed by the county commission.

Source: SL 2008, ch 35, § 5, eff. Feb. 27, 2008; SL 2010, ch 74, § 3.

6-16-6. Voter eligibility. Any person who is registered to vote and resides in the proposed district may vote in the elections provided for in § 6-16-5. However, the qualifications of a voter for irrigation district elections are as provided in chapter 46A-4, and the qualifications of a voter for water project district elections are as provided in §§ 46A-18-2.1 and 46A-18-2.2. Absentee voting is allowed pursuant to chapter 12-19 for the election on the question of formation of the special district or any other question to be voted on by the eligible voters of the district. If the district to be formed is a road district that contains no registered voters, voter eligibility is based solely on landowners. For the purpose of this section, a person resides in a proposed district if the person actually lives in the proposed district for at least thirty days in the last year.

Source: SL 1998, ch 36, § 6; SL 1999, ch 151, § 11; SL 2000, ch 32, § 3; SL 2011, ch 35, § 2.

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6-16-7. Voting rights--Conflict. If there is a conflict regarding who has a right to vote in the election pursuant to §§ 6-16-4 to 6-16-6, inclusive, the judges of election shall settle the conflict by referring to the official records of the county auditor in each county where these official records are held.

Source: SL 1998, ch 36, § 7; SL 2000, ch 32, § 10.

6-16-8. Promulgation of rules. The State Board of Elections may promulgate rules pursuant to chapter 1-26 concerning:

1. The petition form for the formation of a special district;
2. The notice of election; and
3. The nominating petition.

The petition form and notice of election shall include a description of the proposed district boundaries.

Source: SL 1998, ch 36, § 8; SL 2008, ch 35, § 3, eff. Feb. 27, 2008.

South Dakota Codified Law
Title 46A Water Management
Chapter 14 Watershed Districts

46A-14-1. Purpose of chapter--Construction and administration. In order to carry out conservation of the natural resources of the state through land utilization, flood control, and other needs, upon sound scientific principles, for the protection of the public health and welfare and the provident use of the natural resources, the creation of a public corporation as an agency of the state for the aforesaid purposes is herein provided. This chapter shall be construed and administered so as to make effective the following state policy:

(1) The general welfare of the people of South Dakota requires that the land and water resources of the state be conserved and put to optimum beneficial use.

(2) Worthwhile land and water resource developments by the people and organizations in the state are to be encouraged in every way possible by state government and state government shall control, coordinate, and regulate the interrelationship of, and interdependence of, land and water resource projects in order to assure and maintain maximum benefits to the people of the state.

(3) To this end, construction of land and water resource projects in the state shall receive the review, approval, and assistance of the administering agency of state government to the extent that proposed project works are complementary with other existing and proposed developments.

(4) To this end, also, land and water resource development project proposals shall include adequate attention to continuous maintenance in order to assure that the works constructed shall continue to provide the service for which they were built and sponsors of such projects and responsible administrators of state government shall perform their duties in such a manner as to assure the benefits that accrue to the people directly affected by land and water developments are maintained and do not become a menace to or produce damage to the property of others.

Source: SL 1957, ch 492, § 1; SDC Supp 1960, § 61.1501; SDCL, § 46-24-1.

46A-14-2. Definition of terms. Terms used in this chapter mean:

(1) "Appraisers," the persons appointed by the managers of the district to ascertain and report benefits and damages arising from proposed work;

(2) "Board," the State Board of Water and Natural Resources;

(3) "Clerk," the clerk of a circuit court for the county in which any judicial proceeding concerning a district is pending or may arise;

(4) "Conservation district," conservation districts established in accordance with state law;

(5) "County auditor," the county auditor of any county affected by a watershed district;

(6) "District," the proposed or existing watershed district as provided in this chapter;

(7) "District secretary-treasurer," the secretary-treasurer appointed by the board of managers;

(8) "Engineer," an engineer designated by the managers to act as engineer;

(9) "Hearing," a hearing scheduled and conducted by either the managers, conservation districts or the Board of Water and Natural Resources, during which all interested parties shall be given a reasonable opportunity to be heard;

(10) "Initiating petition," a petition as provided in this chapter for the creation or modification of a watershed district;

(11) "Interested party," any public corporation or any person having an interest in the subject matter pending or involved and including the designated representative or any agency of government;

(12) "Landowner," any owner of land, as evidenced by records in the offices of the register of deeds and the clerk of courts in the county containing a proposed or existing watershed district. If land is sold under a contract for deed which is of record in the office of the register of deeds in the county wherein such land is situated, both the landowner and his individual purchaser of the land, as named in the contract for deed, shall be treated as a landowner;

- (13) "Managers," the board of managers of a watershed district;
 - (14) "Municipality" or "municipalities," incorporated cities or towns;
 - (15) "Person," a natural person, firm, copartnership, association, or corporation, but not a public or political subdivision;
 - (16) "Petition," initiating petition for "work" which may consist of one or more petitions therefor;
 - (17) "Public corporation," a county, municipality, school district, or a political division or subdivision of the state, other than a watershed district;
 - (18) "Public health," any act or thing tending to improve or benefit or contribute to the safety or well-being of the general public or benefit the inhabitants of the district;
 - (19) "Public welfare," "general welfare," and "public benefit," any act or thing tending to improve or benefit or contribute to the safety or well-being of the general public or benefit the inhabitants of the district;
 - (20) "Publications," publication once a week for three successive weeks unless otherwise specified;
- and
- (21) "Work" or "works," any construction, maintenance, repairs, or improvements of a watershed district.

Source: SL 1957, ch 492, § 2; SL 1959, ch 452, § 1; SDC Supp 1960, § 61.1502; SL 1965, ch 303, § 1; SDCL, § 46-24-2; SL 1984, ch 297, § 1; SL 1988, ch 367, § 1; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1992, ch 60, § 2; SL 1998, ch 36, § 57.

46A-14-3. Formation of watershed district in conservation districts--Petition to hold hearings and put to vote--Boundaries--Appointment of first board of managers. Conservation districts, upon filing of an initiating petition, may hold hearings and put to a vote the creation of a district and, if favorable, establish a watershed district and define and fix the boundaries of the watershed district. The boundaries may be entirely within or partly within a county or conservation district and may include the whole or any part of one or more counties or conservation districts. The conservation district may appoint the first board of managers of the watershed district, as provided in this chapter. If the proposed district embraces land in more than one conservation district, the supervisors of all such conservation districts shall act jointly as a board of supervisors with respect to all matters concerning watershed districts which are specified in this chapter for a single conservation district. If no conservation district exists that embraces lands proposed for inclusion in a proposed watershed district, the Board of Water and Natural Resources shall function in lieu of a conservation district.

Source: SL 1957, ch 492, § 3; SDC Supp 1960, § 61.1503; SDCL § 46-24-3; SL 2011, ch 165, § 520.

46A-14-4. Watershed districts--Conservation purposes authorizing establishment. A watershed district may be established for any of the following conservation purposes:

- (1) Control or allocation of damage by floods by flood prevention structures including levees;
- (2) Improvement of stream channels;
- (3) Reclaiming or filling wet and overflowed lands;
- (4) Providing water supply for irrigation;
- (5) Regulating the flow and conserving the water of streams;
- (6) Diverting or changing watercourses in whole or in part;
- (7) Providing and conserving water supply for domestic, industrial, recreational, and other public use;
- (8) Providing for sanitation and public health and regulating the use of streams, ditches, or watercourses for the disposition of waste;
- (9) Relocate, extend, replace, modify, consolidate, or abandon in whole or in part, drainage systems within a watershed district and to operate and maintain drainage systems;
- (10) Imposition of preventive or remedial measures for the control or alleviation of land and soil erosion and siltation of watercourses or bodies of water affected by erosion.

Source: SL 1957, ch 492, § 4; SL 1959, ch 452, § 2; SDC Supp 1960, § 61.1504; SL 1965, ch 303, § 2; SDCL, § 46-24-4; SL 1989, ch 389, § 1.

46A-14-5. Watershed districts--Initiating petition for establishment, filing, number of signatures required. Any proceeding for the establishment of a watershed district shall be initiated by the filing of an initiating petition with each conservation district in which the proposed watershed district is located, which initiating petition shall be as provided in § 6-16-2, or by the authorized officials of any municipality authorized by resolution duly passed by the governing body and if signed by the governing officials of one or more municipalities, the petition need not be signed by any of the freeholders of the municipalities.

Source: SL 1957, ch 492, § 5; SL 1959, ch 452, § 3; SDC Supp 1960, § 61.1505 (1); SDCL, § 46-24-5; SL 1992, ch 60, § 2; SL 1998, ch 36, § 58.

46A-14-6. Contiguous land ownerships. The land ownerships embraced within a watershed district shall be contiguous. If feasible, the district shall include all territory within the affected watershed or drainage basin, or all territory from which the water from natural or artificial channels finds its outlet through a main stream or channel. However, lands, the ownership of which is not a matter of record in the office of the register of deeds of the county in which the lands are situated, and lands that are not subject to payment of taxes or special assessments, may be excluded from a proposed or existing watershed district.

Source: SL 1957, ch 492, § 4; SL 1959, ch 452, § 2; SDC Supp 1960, § 61.1504; SL 1965, ch 303, § 2; SDCL § 46-24-6; SL 2011, ch 165, § 521.

46A-14-7. Watershed districts--Inclusion of municipalities. In order to carry out the powers granted to municipalities by provisions of § 9-36-15 the governing body of a municipality may include all or any portion of the corporate area of a municipality in a watershed district if, in the determination of such governing body, the formation of a watershed district offers opportunities favorable to the municipality:

- (1) For alleviation of flood water damages to roads, streets, waterworks, sewer works, river and stream improvements, public or private property, or other improvements within the municipality; or
- (2) In lieu of or betterment of or supplementary to improvements by the municipality as may be under consideration by the governing body; or
- (3) To take advantage of federal or other loans, as provided by § 9-43-61, or federal or other grants of funds or service; or
- (4) To reduce capital investments or other obligations by the municipality which may be otherwise probable; or
- (5) For betterment of the health, safety, or general welfare of the residents of the municipality.

Source: SL 1959, ch 452, § 3; SDC Supp 1960, § 61.1505 (2); SDCL, § 46-24-7.

46A-14-8. Watershed districts--Petition for establishment--Contents. The initiating petition shall contain the following:

- (1) The name of the proposed district;
- (2) That there is need in the interest of the public health, safety, and welfare for creation of a district to accomplish improvements in the watershed;
- (3) A statement in general terms setting forth the purposes of the contemplated improvements, the territory to be included in the district, and all proposed subdivisions thereof, if any, of the district;
- (4) The number of managers shall be three or five members. Each manager shall own land located in the proposed district and be a registered voter in the proposed district. However, no manager may be a public officer of the state or federal government;
- (5) A list of landowners and the total acreage of land owned by each within the proposed district;
- (6) A map of the proposed district and the ownership of all land in the proposed district, except the outline only of the jurisdiction of the authorized officials of municipalities included need be shown; and
- (7) The location of the official place of business of the proposed district.

Source: SL 1957, ch 492, § 5; SL 1959, ch 452, § 3; SDC Supp 1960, § 61.1505 (3); SDCL, § 46-24-8; SL 1992, ch 60, § 2; SL 2000, ch 32, § 7.

46A-14-9. Repealed by SL 1998, ch 36, § 59

46A-14-10. Determination of status of petitioners--Certification to conservation district. Upon receipt of the initiating petition, the board of conservation district supervisors shall determine if the petition contains sufficient signatures as required by § 6-16-2.

Source: SL 1957, ch 492, § 5; SL 1959, ch 452, § 3; SDC Supp 1960, § 61.1505 (5); SL 1965, ch 303, § 3; SDCL, § 46-24-10; SL 1984, ch 297, § 2; SL 1985, ch 363, § 2; SL 1998, ch 36, § 60.

46A-14-11. Petition for establishment of watershed district--Receipt by conservation district, acknowledgment, preliminary report, adjustment of boundaries. Upon receipt of the initiating petition by the conservation district, its supervisors shall:

- (1) Acknowledge receipt thereof;
- (2) Prepare a preliminary report based upon the initiating petition, and other available data, stating the feasibility and practicability of the proposed improvement and organization of the district, for the purpose of presentation by the conservation district supervisors at hearings as hereinafter provided;
- (3) Adjust, as necessary, and fix the boundaries of the proposed district.

Source: SL 1957, ch 492, § 5; SL 1959, ch 452, § 3; SDC Supp 1960, § 61.1505 (6); SDCL, § 46-24-11.

46A-14-12. Conservation commission duties as to watershed projects. The State Conservation Commission shall perform the following functions and duties with respect to watershed projects:

- (1) Review proposed applications for watershed planning assistance under the Federal Watershed and Flood Prevention Act.
- (2) Develop policies and procedures for processing such applications in accordance with state law and policies.
- (3) Conduct field examination of watersheds with all state and federal agencies and other groups having an interest in development of watersheds.
- (4) Determine physical feasibility of proposals for watershed projects.
- (5) Recommend priorities for watershed planning assistance under federal P. L. 566, 83rd Congress.
- (6) Make recommendations concerning all applications for planning assistance under the Federal Watershed and Flood Prevention Act P. L. 566, 83rd Congress, to the Board of Water and Natural Resources for consideration in official actions on behalf of the State of South Dakota.
- (7) Assist, counsel, and advise conservation district supervisors in organizations of watershed districts under this chapter.
- (8) Assist conservation districts within limits of appropriations and personnel with installations and maintenance of the land treatment phase of watershed projects.

Source: SDC Supp 1960, § 4.1520 as added by SL 1961, ch 7, § 1; SDCL, § 46-24-12; SL 1984, ch 12, § 66.

46A-14-13. Time and place for hearing on initiating petition--Publication of notice--Contents. When it has been made to appear to the conservation district supervisors that a sufficient initiating petition has been filed, the conservation district supervisors shall within ten days, thereafter, by their order, fix a time and place, for a hearing thereon. Notice of such hearing shall be given by the conservation district supervisors by publication once each week for at least two consecutive weeks in a newspaper of general circulation in the area covered by the proposed district; the last notice shall occur within ten days before the hearing which notice shall contain the following:

- (1) That an initiating petition has been filed with the conservation district supervisors and a copy thereof with the county auditor of the county or counties affected;
- (2) A general description of the purpose of the contemplated improvement and the territory to be

included in the proposed district;

- (3) The date, time, and place of hearing;
- (4) That all persons affected thereby or interested therein may appear and be heard.

Source: SL 1957, ch 492, § 6; SL 1959, ch 452, § 4; SDC Supp 1960, § 61.1506; SDCL, § 46-24-13; SL 1972, ch 239, § 8.

46A-14-14. Hearing by conservation district on petition--Right of interested persons to be heard. At the time and place fixed for the hearing all persons interested in or affected by the proposed formation of the district shall be given an opportunity to be heard. The conservation district supervisors may continue the hearing from time to time as they may deem necessary.

Source: SL 1957, ch 492, § 7; SL 1959, ch 452, § 5; SDC Supp 1960, § 61.1507 (1); SDCL, § 46-24-14.

46A-14-15. Organization of proposed watershed district--Submission of question to vote of landowners. After the hearing, if it appears to the conservation district supervisors that public interest in the conservation of the natural resources within the proposed district, including wildlife, water resources, forests, and soils, will be served and protected; that the engineering and economic practicability of creating a district will be sound and feasible, when considered in relation to the public interest; and the resulting cost to the owners of the property to be assessed and that the purpose of this chapter would be served by the creation of a watershed district, the conservation district supervisors shall order a vote to be taken as provided in §§ 6-16-2 to 6-16-4, inclusive, if a district should be organized.

Source: SL 1957, ch 492, § 7; SL 1959, ch 452, § 5; SDC Supp 1960, § 61.1507 (2); SL 1965, ch 303, § 4; SDCL, § 46-24-15; SL 1998, ch 36, § 61.

46A-14-16. Referendum on petition unnecessary where signed by sixty percent or more of the landowners. If the initiating petition is signed by sixty percent or more of the landowners in a proposed district who are registered voters in the proposed district and who own at least sixty percent of the land in the proposed district, the petition may be accepted by the conservation district supervisors in lieu of the favorable vote at a referendum as specified in § 46A-14-26 and the referendum specified in § 46A-14-15 is not required.

Source: SL 1959, ch 452, § 3; SDC Supp 1960, § 61.1505 (1); SDCL, § 46-24-16; SL 1998, ch 36, § 62.

46A-14-17. Organization of proposed watershed district--Submission of question to vote of landowners, publication of notice. The conservation district supervisors shall perform the duties of the county auditor as provided in §§ 6-16-4 to 6-16-6, inclusive.

Source: SL 1957, ch 492, § 7; SL 1959, ch 452, § 5; SDC Supp 1960, § 61.1507 (2); SL 1965, ch 303, § 4; SDCL, § 46-24-17; SL 1998, ch 36, § 63.

46A-14-18 to 46A-14-25. Repealed by SL 1998, ch 36, §§ 64 to 71

46A-14-26. Result of referendum on organization of watershed district--Sixty percent or more voting in favor of organization--Procedure for organization. If sixty percent or more of the votes cast at the referendum shall be in favor of the formation of the district, then the conservation district supervisors shall proceed in its organization.

Source: SL 1957, ch 492, § 11; SL 1959, ch 452, § 9; SDC Supp 1960, § 61.1511; SDCL, § 46-24-26.

46A-14-27. Result of referendum--Defeat of proposition to form a watershed district--Resubmission of proposal. If the proposition to form a watershed district as provided by this chapter is defeated at the

referendum, the proposition may again be proposed to the landowners in the same manner as the original proposal came to referendum through initiating petition and subsequent procedure.

Source: SL 1957, ch 492, § 11; SL 1959, ch 452, § 9; SDC Supp 1960, § 61.1511; SDCL, § 46-24-27.

46A-14-28. Certification of favorable petition or vote--Creation of watershed district by conservation district supervisors, designation of name, certified copy of order, filing of order with secretary of state. Upon certification of a favorable petition or vote, the conservation district supervisors shall establish and create a watershed district and give it a corporate name, by which in all proceedings, it shall hereafter be known and, upon filing a certified copy of said findings and order with the secretary of state, said watershed district shall become a political subdivision of the state, with the authority, powers, and duties as prescribed in this chapter.

Source: SL 1957, ch 492, § 12; SL 1959, ch 452, § 10; SDC Supp 1960, § 61.1512; SDCL, § 46-24-28.

46A-14-29. Order of conservation district supervisors creating watershed district--Mailing copy to managers of district. At the time of filing a certified copy of the findings and order with the secretary of state, the conservation district supervisors shall cause registered or certified mail service of a copy thereof to be made upon the managers named therein.

Source: SL 1957, ch 492, § 14; SDC Supp 1960, § 61.1514; SDCL, § 46-24-29.

46A-14-30. Boundaries--Minor adjustments by managers without referendum--Exception. After creation of a watershed district, minor adjustments to the boundaries of the district may be made by the managers, without referendum, if the adjustments do not delete lands from the district that have been subject to a special assessment during the budget year or the current year and if the adjustments do not include additional land in the district without the written approval of the landowner of the land.

Source: SL 1959, ch 452, § 11; SDC Supp 1960, § 61.1513 (2); SDCL § 46-24-30; SL 2011, ch 165, § 522.

46A-14-31. Annexation of additional areas to watershed district--Procedure. A watershed district may annex additional areas, if the additional areas constitute a watershed as specified for a watershed district in § 46A-14-6. The annexation shall be accomplished by either:

- (1) An initiating petition for the annexation by the landowners in the new area and in the existing watershed district, similar to the initiating petition specified in §§ 46A-14-5 and 46A-14-8; or
- (2) An initiating petition by the landowners in the new area and a resolution by the managers of the watershed district.

Upon receipt of the initiating petition and the resolution by the managers, the appropriate conservation district supervisors shall proceed with the annexation in the same manner as prescribed for creation of a new watershed district.

Source: SL 1959, ch 452, § 11; SDC Supp 1960, § 61.1513 (4); SDCL § 46-24-31; SL 2011, ch 165, § 523.

46A-14-32. Combining of two or more watershed districts into one district--Procedure. Two or more watershed districts may be combined into a single watershed district by either:

- (1) An initiating petition therefor, similar to the initiating petition specified in §§ 46A-14-5 and 46A-14-8; or
- (2) Resolutions by the managers stating the desire to combine the watershed districts and containing essentially the same information as prescribed for an initiating petition.

Upon receipt of the initiating petition or resolution by the managers, the appropriate conservation district supervisors shall proceed with the combination of watershed districts in the same manner as prescribed for creation of a new watershed district.

Source: SL 1959, ch 452, § 11; SDC Supp 1960, § 61.1513 (3); SDCL, § 46-24-32.

46A-14-33. Abolishment of original watershed district upon combining districts or annexing additional territory--Certification to secretary of state. Upon completion of proceedings for combination of watershed districts or for annexation of additional areas to a watershed district, the conservation district supervisors shall abolish the original watershed districts. Certification of abolishment shall be made by the conservation district supervisors to the secretary of state at the same time that certification is made to the secretary of state concerning the creation of the modified watershed district as provided in § 46A-14-28.

Source: SL 1959, ch 452, § 11; SDC Supp 1960, § 61.1513 (5); SDCL, § 46-24-33.

46A-14-34. Powers of watershed district--Perpetual existence--Right to sue and be sued--Eminent domain--Taxes and assessments--Borrowing of money. A district created under the provisions of this chapter shall have perpetual existence, unless dissolved earlier as herein provided for, with power, but only to the extent necessary for lawful purposes, specified by this chapter:

- (1) To sue and be sued;
- (2) To incur debts, liabilities, and obligations;
- (3) To exercise the power of eminent domain only when it is necessary to carry out an approved plan;
- (4) To levy a tax not to exceed one dollar per thousand dollars of taxable valuation against the landowners' land and buildings notwithstanding § 46A-14-55;
- (5) To provide for other taxes and assessments;
- (6) To borrow money, and to issue certificates, warrants, and bonds; and
- (7) To do and perform all acts herein expressly authorized and all other acts necessary and proper for carrying out and exercising the powers expressly vested in the district.

Source: SL 1957, ch 492, § 13; SL 1959, ch 452, § 11; SDC Supp 1960, § 61.1513 (1); SDCL, § 46-24-34; SL 1988, ch 367, § 3.

46A-14-35. Oath of office of managers--Filing with conservation district. Within thirty days the managers shall meet at the designated principal place of business of the district and shall take and subscribe the oath as defined in the Constitution of South Dakota. These oaths shall be filed with the conservation district which contains the majority of the lands of the district.

Source: SL 1957, ch 492, § 15; SL 1959, ch 452, § 12; SDC Supp 1960, § 61.1515; SDCL, § 46-24-35; SL 1978, ch 336.

46A-14-36. Organization of district by managers--Selection of officers--Appointment of nonmember as secretary-treasurer, compensation, bond--Providing necessary equipment. The managers shall then organize by electing one of their members chairman, one vice-chairman, and by appointing a secretary-treasurer, who is not a member of the board of managers, and whose compensation, and whose bond shall be set by the managers and provide the necessary books, records, furniture, and equipment for the conduct and transaction of their official business.

Source: SL 1957, ch 492, § 15; SL 1959, ch 452, § 12; SDC Supp 1960, § 61.1515; SDCL, § 46-24-36.

46A-14-37. Annual election of managers of district by landowners--Term of office. Prior to May first of each year, on dates established by the managers, an annual meeting of the district shall be held during which the landowners shall elect, by ballot, under the direction of the secretary of the district, managers to replace those

whose terms have expired. At the first annual election, if three members shall be the number of managers, one shall be elected for one year, one for two years, and one for three years, and thereafter one shall be elected annually for three years; if there be five managers then at the first annual meeting one shall be elected for three years, two shall be elected for two years, and two shall be elected for one year, and thereafter at the annual meeting the terms of those expired, shall be elected for three years.

Source: SL 1957, ch 492, § 17; SL 1959, ch 452, § 13; SDC Supp 1960, § 61.1517; SL 1965, ch 303, § 6; SDCL, § 46-24-37.

46A-14-38. Candidates for election as members of board of managers--Filing of application with secretary of board of managers--Qualifications. Candidates shall file their written applications with the secretary of the board of managers, at least thirty days before elections. All managers and candidates shall be landowners of the district. Landowners residing within or outside the district may vote in person, or by absentee ballot.

Source: SL 1957, ch 492, § 17; SL 1959, ch 452, § 13; SDC Supp 1960, § 61.1517; SL 1965, ch 303, § 6; SDCL, § 46-24-38.

46A-14-39. Vacancies on board--Filling by appointment--Term of office. Any vacancy in an unexpired term shall be filled by appointment within thirty days of the vacancy by the remaining managers. Any vacancy in an expired term for which no candidate's application has been filed pursuant to § 46A-14-38 shall be filled by appointment within thirty days of the election by the remaining managers. An appointed manager shall hold office for the remainder of the term for which he or she has been appointed.

Source: SL 1957, ch 492, § 17; SL 1959, ch 452, § 13; SDC Supp 1960, § 61.1517; SL 1965, ch 303, § 6; SDCL § 46-24-39; SL 1989, ch 389, § 5; SL 2011, ch 165, § 524.

46A-14-40. Advisory committee--Appointment by board of managers--Number of members--Duties. The managers shall appoint an advisory committee consisting of not less than five members who shall be representatives of the major activities in the district including conservation district activities. The committee shall advise and make recommendations to the managers upon all matters affecting the interests of the district but the managers shall have final authority for decisions made.

Source: SL 1957, ch 492, § 18; SL 1959, ch 452, § 14; SDC Supp 1960, § 61.1518; SDCL, § 46-24-40; SL 1989, ch 389, § 6.

46A-14-41. Personnel of district, employment by board of managers, duties and compensation--Cost as part of project--Bond for performance of duties, amount, premium paid from district fund. The managers may appoint or employ an engineer, professional assistants, and such other employees as may be necessary, and provide for their qualification, duties, and compensation, which, with all other expenses shall be included as a part of cost of the project or improvement. The managers may require any officer or employee of the district to give a bond for the faithful performance of his duties, in an amount prescribed by them, the cost thereof to be paid for from funds of the district.

Source: SL 1957, ch 492, § 19; SDC Supp 1960, § 61.1519; SDCL, § 46-24-41.

46A-14-42. Compensation of board members--Limitation. Any member of a watershed district board may receive travel and subsistence expense in accordance with the rules promulgated by the State Board of Finance. In addition, per diem, not to exceed sixty dollars per day, may be paid each member for each day of actual service for attending meetings, hearings, or investigations of the watershed district board. Travel, subsistence, and per diem shall be paid on vouchers duly verified and approved according to the rules promulgated by the Board of Finance.

Source: SL 1957, ch 492, § 15; SL 1959, ch 452, § 12; SDC Supp 1960, § 61.1515; SDCL, § 46-24-42; SL 1989, ch 389, § 7.

46A-14-43. Duties of board of managers--Adoption of seal--Record of business transacted--Bylaws and regulations, adoption--Meetings, notice. The board of managers shall:

- (1) Adopt a seal;
- (2) Keep a record of all proceedings, minutes, certificates, contracts, bonds, or employees and other business transacted by the managers;
- (3) Adopt bylaws and regulations consistent with the chapter;
- (4) Meet annually and such other times as may be necessary. A meeting may be called at any time by the chairman or at the request of any manager through the chairman. When so requested the secretary of the district shall mail a notice of such meeting to each member at least ten days prior thereto.

Source: SL 1957, ch 492, § 15; SL 1959, ch 452, § 12; SDC Supp 1960, § 61.1515; SDCL, § 46-24-43; SL 1993, ch 256, § 86.

46A-14-43.1. District bylaws may be proposed by petition--Approval by board and special election. In addition to the procedures provided in § 46A-14-43 for adopting watershed district bylaws, bylaws may be proposed by petition of twenty-five percent of the landowners within the district. The proposed bylaws shall be adopted if approved by the board of managers of the watershed district and if at least sixty percent of the votes cast in a special election on the issue are in favor of adopting the proposed bylaws.

Source: SL 1989, ch 389, § 8.

46A-14-44. Conservation practices within the scope of proposed project--Power of board of managers to effectuate. In order to give effect to proper conservation practices within the scope of the proposed project and improvement the board of managers may:

- (1) Make surveys or utilize other reliable surveys and data and develop projects to accomplish the purposes for which the district is organized;
- (2) Cooperate or contract with any individual, state, or subdivision thereof or federal agency or private or public corporation as necessary;
- (3) Construct, clean, repair, alter, abandon, consolidate, reclaim, or change, the course or termines of any public ditch, drain sewer, river, watercourse, natural or artificial, within the district, in cooperation with other agencies having prior jurisdiction;
- (4) Acquire, lease, operate, construct, and maintain dams, dikes, reservoirs, and pertinent works;
- (5) Acquire by gift, lease, purchase, or eminent domain necessary real and personal property;
- (6) Contract for purchase of insurance for protection of the district as necessary;
- (7) Establish and maintain devices for acquiring and recording hydrological data;
- (8) Enter into all contracts of construction authorized by this chapter.

Source: SL 1957, ch 492, § 15; SL 1959, ch 452, § 12; SDC Supp 1960, § 61.1515; SDCL, § 46-24-44.

46A-14-45. Vested water rights--Exclusion from operation of chapter. Vested water rights, as defined by §§ 46-1-9 and 46-1-10, are excluded from the operation of this chapter. No watershed district and no members of the watershed district have any jurisdictional authority or control over waters subject to such vested rights.

Source: SL 1957, ch 492, § 1; SDC Supp 1960, § 61.1501 (5); SDCL § 46-24-45; SL 2011, ch 165, § 525.

46A-14-46. Vested drainage rights--Exclusion from operation of chapter. Vested drainage rights as defined by chapters 46A-10A to 46A-13, inclusive, shall be excluded from the operation of this chapter, until such a time as the operation of any drainage district can be absorbed by the watershed district, to the satisfaction of the then

controlling board of county commissioners, or board of commissioners appointed by the county commissioners, or the board of trustees elected by the people of the district.

Source: SL 1957, ch 492, § 1; SDC Supp 1960, § 61.1501 (6); SDCL, § 46-24-46.

46A-14-47. General improvement plan within district--Adoption by managers, consultation with advisory committee and district supervisors of conservation district--Contents--Estimated benefits--Method of financing--Examination by board, report of recommendations. The managers shall within a reasonable length of time after qualifying, adopt an overall plan for improvements within the district for reclamation, drainage, erosion, and flood control, and improvement of lands, soils, waters, forests, wildlife, and all other authorized purposes. The plan finally adopted shall be made in conjunction with the advisory committee and in consultation with the district supervisors of the conservation district or districts in the watershed district, but the managers have final authority and full responsibility. This plan shall be designated the general improvement plan for the watershed district. The general improvement plan shall consist of a map, on which is shown the area to be benefited, the location of the proposed works of improvement, and the location of buildings, roads, streams, and such other topographic features as are pertinent to show the relation of the proposed works of improvement to the area of the district, and a narrative in which are stated the estimated benefits that will result and the proposed method of financing and accomplishing the work to be done. Upon receipt of a copy of the general improvement plan, the Board of Water and Natural Resources shall examine the plan and within thirty days transmit a report of their recommendations to the managers.

Source: SL 1957, ch 492, § 21; SL 1959, ch 452, § 16; SDC Supp 1960, § 61.1521 (1); SDCL, § 46-24-47; SL 1995, ch 253, § 6.

46A-14-48. Determination of priority of specific projects--Surveys of work--Estimates--Reports of engineer, filing, public inspection. After the general improvement plan of the district has been adopted, as provided in § 46A-14-47, the managers shall determine the order in which specific projects included in the general plan shall be undertaken and shall cause accurate surveys of all work deemed necessary to be done and accurate estimates and calculations to be made by the engineer, as provided in this chapter. The engineer shall make written reports showing the amount, character, and kind of work to be done and the location and estimated cost thereof. Any engineer's report shall include:

- (1) A description of any area to be benefited by the project and each of the major works of improvement;
- (2) The starting point, the route, and the terminus of any proposed drainage ditches or flood control canals;
- (3) The course and length of any drain through each tract of land with the number of acres to be acquired from each tract for construction;
- (4) A topographical map showing the location and size of any lake, pond, or depression in areas benefited by drainage or flood control canals, together with the approximate location of any natural subdivide;
- (5) The project's probable cost;
- (6) Data establishing the presence of a suitable outlet for project waters; and
- (7) Any such other fact as may be material to determine the practicability of the various project features.

The reports shall be filed in the office of the managers and at all reasonable times shall be open to public inspection.

Source: SL 1957, ch 492, § 22; SL 1959, ch 452, § 17; SDC Supp 1960, § 61.1522; SDCL, § 46-24-48; SL 1985, ch 364, § 1; SL 1995, ch 253, § 7.

46A-14-49. Board of Water and Natural Resources to act as state agency on federal watershed projects. The Board of Water and Natural Resources is hereby designated the state agency to act on behalf of the State of

South Dakota with respect to watershed projects in order to fulfill the provisions of the Federal Watershed and Flood Prevention Act (P.L. 566, 83rd Congress), as amended to January 1, 2011.

Source: SDC Supp 1960, § 4.1521 as enacted by SL 1961, ch 7, § 2; SDCL § 46-24-49; SL 2011, ch 165, § 526.

46A-14-50. General improvement plan prior to formation of watershed district--Undertaken by local people with sponsoring assistance--Considered adopted plan. Prior to formation of a watershed district, requests for planning assistance, development of watershed work plans and similar considerations may be undertaken by steering committees of local people with sponsoring assistance by conservation districts as permitted under state law and in accordance with federal laws. Such plans may be considered as the adopted general improvement plan specified in § 46A-14-47.

Source: SL 1957, ch 492, § 21; SL 1959, ch 452, § 16; SDC Supp 1960, § 61.1521 (2); SDCL, § 46-24-50.

46A-14-51. Examination and hearings on plans--Resolution as to doing work and paying costs--List of benefited lands and owners. The managers shall carefully examine the plans, shall hold hearings on the proposals in the plans and, by resolution, shall resolve whether the proposed work, or any part of the proposed work, should be accomplished and whether its cost shall be paid by a general tax levy against all taxable landowners' land and buildings located within the district, or by special assessment against the landowners' lands and buildings within the district to be specially benefited by the project or by both general tax levy and special assessment and the portion to be paid by each. The managers shall prepare a description of each tract of benefited land and shall list the names of the owners of the benefited land as shown by the county tax records, which document shall be on file in the district office and available for public inspection during regular business hours.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (1); SDCL, § 46-24-51; SL 1985, ch 364, §§ 2, 4; SL 1995, ch 253, § 8.

46A-14-52. Evidences of indebtedness of district for payment of costs of project--Issuance in installments instead of levy of entire tax at one time. The managers shall also determine in said resolution whether to issue improvement bonds of the district, or other authorized arrangement, to provide for the payment of the cost of such project by installments instead of levying the entire tax or special assessment at one time.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (2); SDCL, § 46-24-52.

46A-14-53. Contract with conservation districts for funding. The managers may enter into a contract with the supervisors of a conservation district or districts for funds necessary for operation, maintenance, and other obligations set forth in the watershed financial plan approved pursuant to § 46A-14-51, and funds for such purpose shall be made available to the conservation district by the county commissioners pursuant to § 38-8-49.1.

Source: SL 1971, ch 255; SDCL Supp, § 46-24-52.1; SL 1985, ch 77, § 39.

46A-14-54. Meeting of managers for hearing on apportionment of benefits resulting from improvement--Rights of interested parties--Determination of fair and just apportionment. The said resolution upon being duly adopted shall be published in three issues of a legal newspaper of general circulation in each county in which land of the district is located, stating the time when and the place where the managers shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person, or by counsel, or may file written objections thereto. The managers shall then proceed to hear and consider the same, and shall make the apportionments fair and just according to benefits received from the improvement and give due credit for the work already done.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (4); SDCL, § 46-24-53.

46A-14-55. Referendum on financing arrangement for improvement--Necessary number of votes in favor of proposal. No construction or related commitments requiring district payments may be entered into, no taxes or assessments levied, no bonds issued, or other financing arrangement made except as provided in § 46A-14-34, unless the managers have initiated adequate hearings to clearly demonstrate the works proposed for construction and the benefits to accrue from the proposed works and have conducted a referendum in accordance with this chapter in which at least sixty percent of the landowners voting in the referendum vote in favor of the tax levy, bond issue, or other permissible financing arrangement.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (3); SDCL § 46-24-54; SL 2011, ch 165, § 527.

46A-14-56. Referendum on financing arrangement for improvement--Eligibility to vote on proposed general tax levies, special assessments--Determination of outcome, counting of votes. In the referendum, as provided in § 46A-14-55, the same eligibility to vote as prescribed by §§ 46A-14-20 to 46A-14-23, inclusive, shall govern in the case of proposed general tax levies. In case special assessments are proposed, the votes of only those landowners subject to such special assessments shall be counted. In case the financing proposal provides for both general tax levies and special assessments, the votes applicable to the general tax and the votes applicable to the special assessments shall be counted separately and accepted separately for purposes of determining the outcome of the referendum.

Source: SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (3); SDCL, § 46-24-55.

46A-14-57. Contracts between managers and municipalities for annual payments by municipality to district in lieu of tax or special assessment levies--Favorable vote by voters of municipality required. In lieu of tax or special assessment levies in municipalities, the managers and the governing boards of municipalities may enter into contracts for annual payments by the first or second class municipality to the district. The governing boards shall include amounts sufficient to cover such annual payments to the district in the annual appropriations of such municipalities. If contractual commitments between a district and a municipality are to meet in part obligations imposed by a contract or other agreement between the district and an agency of the United States, such commitments on behalf of a municipality shall be a continuing annual obligation during the life of the contract between the district and the United States in the same manner as though the municipality had entered into the contract or agreement with the United States under provisions of § 9-36-15 or 9-43-61. In no case shall the governing board of a municipality execute a contract or agreement with the managers of a district until a favorable vote by the voters of the municipality has been obtained in order that claims for payment may be paid by the municipality under provisions of § 9-42-2.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (5)(b); SDCL, § 46-24-56; SL 1970, ch 20, § 1 (4); SL 1992, ch 60, § 2.

46A-14-58. Completion of apportionment of benefits by managers--Resolution approving tax or assessment levy on property outside corporate limits of municipalities, detailed report filed with county auditor, collection of district levy. The managers, having completed the apportionment of benefits, shall prepare and by resolution approve the tax or assessment levy against landowner's land and buildings outside of the corporate limits of municipalities and shall file a detailed report of same with the appropriate county auditor. The county auditor shall spread the district levy upon the county tax rolls and collect such district levy in the same manner as other county taxes.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (5)(a); SDCL, § 46-24-57.

46A-14-59. Assessed valuation for district tax purposes--Limitation on land taxed. The assessed valuation for district tax purposes shall be the same assessed valuation that is used for general county levies. However, if a majority of the landowners to be taxed or assessed to finance works owns less than ten acres of land, no such landowner may be taxed or assessed against more than ten acres of land.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (6); SDCL, § 46-24-58; SL 1984, ch 297, § 4.

46A-14-60. Annual general tax levy against land and buildings--Maximum amount. When adopting a financing plan or levying taxes to cover the estimated costs of district business, as provided in §§ 46A-14-51 and 46A-14-54 to 46A-14-59, inclusive, no annual general tax levy against taxable land and buildings within the district may exceed the amount that can be collected by a one-mill levy. This limitation does not apply to special assessments nor to assessments required to meet payments, including interest, on district bonds.

Source: SL 1957, ch 492, § 30; SL 1959, ch 452, § 24; SDC Supp 1960, § 61.1530 (1); SDCL § 46-24-59; SL 2011, ch 165, § 528.

46A-14-61. Taxes collected by county officials--Delivery to district secretary-treasurer. After collection the appropriate county officials shall each month deliver the taxes collected on behalf of the district to the district secretary-treasurer.

Source: SL 1957, ch 492, § 23; SL 1959, ch 452, § 18; SDC Supp 1960, § 61.1523 (5)(c); SDCL, § 46-24-60.

46A-14-62. Interested party aggrieved by apportionment of benefits or levy of taxes and assessments--Appeal, procedure. Any interested party claiming to be aggrieved by such apportionment of the benefits or taxes or assessments levied in accordance therewith may appeal in accordance with procedures established by state law for review of tax levies.

Source: SL 1957, ch 492, § 24; SL 1959, ch 452, § 19; SDC Supp 1960, § 61.1524; SDCL, § 46-24-61.

46A-14-63. No-fund warrants to pay district obligations--Limitation on amounts. Following a favorable vote by the voters as provided in § 46A-14-55 and in anticipation of tax or special assessment collections, the managers may issue no-fund warrants to pay district obligations. However, the outstanding amounts of the no-fund warrants may not exceed the product of two mills times the assessed valuation of the landowner's taxable land and buildings within the district.

Source: SL 1957, ch 492, § 30; SL 1959, ch 452, § 24; SDC Supp 1960, § 61.1530 (2); SDCL § 46-24-62; SL 2011, ch 165, § 529.

46A-14-64. Long-term financing arrangement authorized by voters--Notice to landowners--Suit to set aside--Collection. If a bond issue or other authorized long-term financing arrangement is authorized by the voters of the district, the managers shall immediately cause a written notice to be mailed to the owner or owners of each tract of land assessed of the amount of the assessment. The notice shall state that if the amount is not paid in full within thirty days after the date of the notice, bonds will be issued or payment contracts negotiated and that an assessment will be levied annually against the tract of ground for a period of not to exceed fifty years in an amount sufficient to pay the total assessment plus the interest due on the bonds. No suit to set aside the assessment may be brought after the expiration of thirty days from the date of the notice. The amount levied against each tract of land to pay for the bonds, or contract commitments, falling due each year and the interest on the bonds or contract commitments, shall be levied, certified to the proper county auditor, and collected the same as other taxes.

Source: SL 1957, ch 492, § 25; SDC Supp 1960, § 61.1525; SL 1961, ch 458; SDCL § 46-24-63; SL 2011, ch 165, § 530.

46A-14-65. Special election on question of raising money to cover increased costs of district business or to be applied to supplemental improvements, calling by board of managers. The managers may call a special election and submit to the qualified voters of the district the question of whether additional taxes or special assessment shall be levied for the purpose of raising money to cover increased costs of district business or to be applied to a supplemental plan of improvements which are over and above the initial plan of improvements.

Source: SL 1957, ch 492, § 26; SL 1959, ch 452, § 20; SDC Supp 1960, § 61.1526; SDCL, § 46-24-64; SL 1989, ch 389, § 9; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1995, ch 253, § 9.

46A-14-66. Annual maintenance of watershed project--Duty of managers to provide--Project schedule--Budgets. Once constructed, the managers shall provide for adequate annual maintenance of the watershed project works. They shall adopt an overall project schedule of routine operation and maintenance. They shall prepare annual operation and maintenance budgets for the following calendar year in which is stated the operation and maintenance work to be done during the budget year and the estimated cost thereof.

Source: SL 1957, ch 492, § 27; SL 1959, ch 452, § 21; SDC Supp 1960, § 61.1527; SDCL, § 46-24-65.

46A-14-67. Annual operation and maintenance budget, provisions--Reserve fund. The annual operation and maintenance budget shall include provisions for accumulation of a reserve fund for extraordinary maintenance or operation. The amount budgeted each year for the reserve fund shall be at least ten percent of the estimated cost of the annual routine operation and maintenance. Annual increments for the reserve fund shall be budgeted whenever the balance in the accumulated reserve fund is less than the current annual operation and maintenance budget. Expenditures from the reserve fund may be made by the managers whenever, in their judgment, extraordinary operation or maintenance of the project works is necessary.

Source: SL 1957, ch 492, § 27; SL 1959, ch 452, § 21; SDC Supp 1960, § 61.1527; SDCL, § 46-24-66.

46A-14-68. Repealed by SL 1995, ch 253, § 10

46A-14-69. Budgeted operation and maintenance expense--Inclusion in tax assessment list. Tax or special assessment levies in amount sufficient to cover the budgeted operation and maintenance expense shall be included by the managers in their tax assessment list as provided in § 46A-14-58, if the levies do not exceed the limitations specified in this chapter or do not exceed the amounts of taxes or special assessments voted favorably by the voters of the district.

Source: SL 1957, ch 492, § 27; SL 1959, ch 452, § 21; SDC Supp 1960, § 61.1527; SDCL § 46-24-68; SL 2011, ch 165, § 531.

46A-14-70. Certification of taxes and assessments to county auditor--Extension upon tax list--Collection and deposit. On or before the first day of August in each year, the managers shall certify to the county auditor of the county in which the land is located, all taxes and assessments against the landowners' lands and buildings in the district. Extension of the taxes and assessments upon the tax and assessment lists shall be made as specified in § 46A-14-58. The taxes and assessments shall be collected in the same manner as other county taxes and assessments, and shall be deposited with the secretary-treasurer of the watershed district, who shall place them in the depository designated by the managers. The taxes and assessments shall be disbursed according to § 46A-14-75.

Source: SL 1957, ch 492, § 33; SL 1959, ch 452, § 27; SDC Supp 1960, § 61.1533; SDCL § 46-24-69; SL 2011, ch 165, § 532.

46A-14-71. Contributions by board of county commissioners to watershed district supplies, labor, and equipment. The board of county commissioners may contribute to watershed districts supplies, labor, and equipment to benefit the county highway system, for maintenance of flood control, water management, and erosion control measures. The contributions to the districts shall be paid for from the general fund.

Source: SDC 1939, § 12.0617 (14) as added by SL 1961, ch 30; SDCL, § 46-24-70; SL 1985, ch 77, § 30.

46A-14-72. Acquisition of real estate or easement therein by watershed district--Purchase--Condemnation, appraisal of premises involved. The watershed district may purchase such real estate or easement therein as it may need and if it cannot agree on the purchase price on any needed real estate or easement therein, it may condemn the same. If the watershed district finds it expedient or necessary for the maintenance of any part of its improvement already constructed to add thereto further construction in the nature of settling basins, conservation lakes, or other improvements, the watershed district, if not able to agree with the landowner on the terms for the acquisition of the interest in land needed or the yearly cash rental of any premises taken and used for such purpose, may condemn for the purpose of fixing the amount to be paid for the interest in the land or the yearly rental for the land so taken. The appraisal of the premises involved shall be made by a committee composed of the aggrieved, a district manager, and these two shall elect a third member. If the watershed district takes or damages the real estate of any minor or protected person, the conservator of such minor or protected person may agree and settle with the watershed district for all damages or claims by reason of taking such real estate or easement, and may give valid releases and discharge therefor.

Source: SL 1957, ch 492, § 28; SL 1959, ch 452, § 22; SDC Supp 1960, § 61.1528; SDCL, § 46-24-71; SL 1993, ch 213, § 246.

46A-14-73. Contracts between district and others--Purposes--Referendum by voters where contract will require increased taxes or assessments. The managers may enter into contracts or other arrangements with any agency of the United States government; with persons, railroads, or other corporations; with public and municipal corporations and the state government of this state; or with drainage, soil and water conservation, conservancy, sewer, park, sanitary, reclamation, public power, public power and irrigation, watershed, or other improvement districts, in this or other states, for cooperation, or assistance in constructing, maintaining, using, and operating the works of the districts, the waters of the districts, or in minimizing or preventing damage to the properties, works, and improvements of the districts from soil erosion; or for making surveys and investigations or reports on the surveys and investigations. However no contract or agreement that will require the levy of increased taxes or assessments may be signed by the managers without submitting the increased taxes or assessments to the voters of the watershed district for approval.

Source: SL 1957, ch 492, § 29; SL 1959, ch 452, § 23; SDC Supp 1960, § 61.1529; SDCL § 46-24-72; SL 2011, ch 165, § 533.

46A-14-74. Funds of district--Deposit by secretary-treasurer in approved depository--Warrants. All funds of the district shall be deposited by the district secretary-treasurer in a depository designated and approved by the managers at a regular meeting, and all warrants as provided for in § 46A-14-75, shall be drawn on the watershed district.

Source: SL 1957, ch 492, § 32; SL 1959, ch 452, § 26; SDC Supp 1960, § 61.1532; SDCL, § 46-24-73.

46A-14-75. Claims against district--Payment by warrant or order--Registration. All claims against watershed districts shall be paid by warrants or orders drawn on the district secretary-treasurer, signed by the chair of the district and countersigned by its secretary-treasurer. When warrants or orders have been issued and delivered, they may be presented to the treasurer of the watershed district. If necessary, the treasurer shall endorse them "not paid for want of funds." These orders or warrants shall be registered by the secretary-treasurer in order of

presentation and shall draw interest per year at a rate negotiated by the parties from the date of registration. They shall be registered by the district secretary-treasurer in anticipated receipt of watershed district taxes or assessments due the district.

Source: SL 1957, ch 492, § 31; SL 1959, ch 452, § 25; SDC Supp 1960, § 61.1531; SDCL § 46-24-74; SL 1983, ch 28, § 63; SL 2011, ch 165, § 534.

46A-14-76. Services performed by county officials and Board of Water and Natural Resources free of charge. All county officials shall perform the services outlined in this chapter free of charges to the district. The services of the Board of Water and Natural Resources as provided in this chapter, also shall be free of charges to the district.

Source: SL 1957, ch 492, § 32; SL 1959, ch 452, § 26; SDC Supp 1960, § 61.1532; SDCL, § 46-24-75.

46A-14-77. Engineer of district--Reports to board of managers. The engineer of the district shall make a full report to the managers each year or more often if necessary.

Source: SL 1957, ch 492, § 19; SDC Supp 1960, § 61.1519; SDCL, § 46-24-76; SL 1995, ch 253, § 11.

46A-14-78. Secretary-treasurer of district--Annual report to board of managers. At the end of the year the secretary-treasurer shall make a report to the managers.

Source: SL 1957, ch 492, § 32; SL 1959, ch 452, § 26; SDC Supp 1960, § 61.1532; SDCL, § 46-24-77; SL 1995, ch 253, § 12.

46A-14-79. Annual reports of board of managers of district--Financial conditions--Status of projects--Business transacted. The managers shall annually make and file a report of financial conditions of the district, the status of all projects and work, the business transacted by the district, and other matter affecting the interests of the district.

Source: SL 1957, ch 492, § 16; SDC Supp 1960, § 61.1516; SDCL, § 46-24-78; SL 1995, ch 253, § 13.

46A-14-79.1. Annual audit of district when loan agreement in effect--Filing of copies. At the close of each fiscal year during which any loan agreement is in effect pursuant to § 46A-3D-18, the watershed district shall obtain an audit by the State Department of Legislative Audit, or an auditor approved by the State Department of Legislative Audit, of the books, records, and financial affairs of the watershed district. A written report of the audit shall be kept on file in the principal place of business of the watershed district, and copies of the report shall be filed in the Office of the Secretary of State and with the Board of Water and Natural Resources.

Source: SL 1986, ch 374, § 3.

46A-14-80. Operation of watershed district, investigation by board--Hearings, order to correct detrimental operation--Enforcement of order by injunction. The Board of Water and Natural Resources may at any time investigate the operations of any watershed district and if it discovers such operations are detrimental to the proper utilization of waters or existing rights or that the conduct of the operations as to the waters in the particular district are not being conducted in a manner which the board believes is providing the greatest utilization of such waters, then the board may in its discretion hold a hearing to develop the necessary facts and information. Thereupon, if the board decides that affirmative action is required to correct the practices engaged in by such district the board shall order the managers to correct the detrimental operation. In case of failure by the managers to make the corrections ordered, the board is empowered to procure an order from a court of competent jurisdiction to prevent the district from further engagement in such detrimental operations.

Source: SL 1957, ch 492, § 20; SL 1959, ch 452, § 15; SDC Supp 1960, § 61.1520; SDCL, § 46-24-79.

46A-14-81. Dissolution of district--Federal project not certified infeasible--Petition by landowners--Special election--Notice--Ballots. After a watershed district has been in existence for at least five years and contains a federal watershed project that has not been certified infeasible by the state conservationist of the United States Soil Conservation Service, whenever twenty-five percent of the landowners of the district petition the managers to call a special election to submit to the qualified voters of the watershed district a proposition to vote on the discontinuance of the watershed district and a settlement of its bonded and other indebtedness, the managers shall call a special election for those purposes and shall publish notice of the election in a legal newspaper of general circulation in the county or counties in the watershed district once each week for three consecutive publications. The notice shall state that an election is to be held to determine whether the watershed district should be dissolved. The ballots shall read as follows:

For dissolution of (Name) Watershed District ()

Against dissolution of (Name) Watershed District ()

Source: SL 1957, ch 492, § 34; SL 1959, ch 452, § 28; SDC Supp 1960, § 61.1534; SDCL, § 46-24-80; SL 1980, ch 312, § 1; SL 1989, ch 389, § 10.

46A-14-82. Dissolution of district--Federal project not certified infeasible--Special election--Percent required to dissolve--Notice to creditors--Auction--Proration of funds remaining. If sixty percent of the votes cast under the provisions of § 46A-14-81 are for dissolution, the managers shall immediately notify all persons having claims against the district in whatever form they may exist. The real and personal property of the district shall be sold by auction to the highest bidder, as directed by the managers. After all obligations have been met, the remaining funds, if any, shall be prorated back to the landowners in proportion to their last year of assessment.

Source: SL 1957, ch 492, § 34; SL 1959, ch 452, § 28; SDC Supp 1960, § 61.1534; SDCL, § 46-24-81; SL 1980, ch 312, § 3; SL 1988, ch 367, § 4.

46A-14-83. Dissolution of district--Federal project not certified infeasible--Proposal defeated, three years before another vote on question. If the vote authorized by § 46A-14-81 is against dissolution there may not be another vote for three years.

Source: SL 1957, ch 492, § 34; SL 1959, ch 452, § 28; SDC Supp 1960, § 61.1534; SDCL, § 46-24-82; SL 1980, ch 312, § 3.

46A-14-84. Dissolution of district--Request that federal project be certified infeasible--Board may proceed after certification. A district board may request that the state conservationist of the United States Soil Conservation Service certify a federal project as infeasible. If the project is certified as infeasible, the board may proceed to dissolve the district under the provisions outlined in §§ 46A-14-85 to 46A-14-90, inclusive.

Source: SL 1980, ch 312, § 4; SDCL Supp, § 46-24-82.1.

46A-14-85. Dissolution of district--Federal project certified infeasible--Vote by board--Statement submitted to commission. If a district's federal project is certified as infeasible, the board may vote to dissolve the district. If a majority of board members vote for dissolution, a written statement of intent to dissolve the district shall be submitted to the State Conservation Commission for approval.

Source: SL 1980, ch 312, § 5; SDCL Supp, § 46-24-82.2.

46A-14-86. Dissolution of district--Federal project certified infeasible--Public hearing before commission--Informal poll of voter opinion--Notice of meeting. Prior to action by the conservation commission, a public hearing open to all voters in the district shall be held by the conservation commission to determine public feeling within the district. The board may conduct an informal vote to determine voter opinion on dissolution if the board feels a vote is necessary. Notice of the meeting shall be published by the board in the major newspaper in the district at least once a week for at least two weeks prior to the meeting.

Source: SL 1980, ch 312, § 6; SDCL Supp, § 46-24-82.3.

46A-14-87. Dissolution of district--Federal project certified infeasible--Determination whether to approve dissolution--Matters considered. Subsequent to the public hearing required by § 46-14-86, the conservation commission shall determine if the proposed dissolution is to be allowed. In making its determination, the commission shall consider written and verbal reports by the district board, the public attitude displayed at the public hearing and all other information the members of the commission deem relevant. At least one board member shall be present at the commission meeting to testify.

Source: SL 1980, ch 312, § 7; SDCL Supp, § 46-24-82.4.

46A-14-88. Dissolution of district--Federal project certified infeasible--Effective date of dissolution. If the members of the conservation commission choose to approve a district dissolution, the dissolution shall be effective thirty days from the date of the commission meeting.

Source: SL 1980, ch 312, § 8; SDCL Supp, § 46-24-82.5.

46A-14-89. Dissolution of district--Federal project certified infeasible--Apportionment of funds and assets to conservation districts. All funds and assets of a dissolved district shall be divided among all conservation districts lying at least partially within the dissolved district. The funds and assets shall be apportioned on the basis of each conservation district's land area in areas within the dissolved district.

Source: SL 1980, ch 312, § 9; SDCL Supp, § 46-24-82.6.

46A-14-90. Dissolution of district--Notice to secretary of state. Notice of the dissolution of a watershed district shall be sent to the secretary of state.

Source: SL 1980, ch 312, § 10; SDCL Supp, § 46-24-82.7.

46A-14-91. Vested rights protected. Nothing in this chapter in any way may affect the vested water or drainage rights of any person, governmental subdivision or public corporation organized or in existence prior to July 1, 1957.

Source: SL 1957, ch 492, § 35; SDC Supp 1960, § 61.1535; SDCL, § 46-24-83; SL 1985, ch 364, § 3.

46A-14-92. Citation of chapter. This chapter shall be cited as the "Watershed Act."

Source: SL 1957, ch 492, § 36; SDC Supp 1960, § 61.1536; SDCL, § 46-24-84.