

CHAPTER 70

An Act to provide for the Establishment of Watershed Conservation Districts to conserve the Water Resources of the Province.

[Assented to August 4th, 1959]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

- Short title.** **1.** This Act may be cited as: "The Watershed Conservation Districts Act".
- Definitions:** **2.** In this Act
- "board" (a) "board" means the authority having jurisdiction in respect of a district and for the establishment of which provision is made in sections 3 and 5;
- "commission" (b) "commission" means The Watershed Conservation Commission for the establishment of which provision is made in section 22;
- "department" (c) "department" means The Department of Agriculture and Conservation;
- "director" (d) "director" means The Director of Water Control and Conservation appointed under The Department of Agriculture and Conservation Act;
- "district" (e) "district" means a watershed conservation district established under sections 3 and 5 or under section 7, and as it may be altered or consolidated from time to time as herein provided;
- "included area" (f) "included area" means the area of a municipality that is included in a district or proposed district, as the case may be, whether it is the whole or part of a municipality;

- "included municipality" (g) "included municipality" means a municipality of which the whole or any part is included in a district or a proposed district, as the case may be;
- "minister" (h) "minister" means the Minister of Agriculture and Conservation;
- "municipality" (i) "municipality" includes a local government district;
- "regulations" (j) "regulations" means regulations made under this Act;
- "protection forest" (k) "protection forest" means a forest
 - (i) that is growing on land other than Crown land and the chief value of which is to regulate stream flow, prevent erosion, hold shifting sand, or exert any other direct beneficial effect; and
 - (ii) that has been designated in the regulations as a "protection forest";

whether or not it produces timber;
- "water control works" (l) "water control works" means works
 - (i) for the conservation, control, disposal, protection, distribution, drainage, storage, or use of water; or
 - (ii) for the protection of land or other property from damage by water;

or for all or some of those purposes, and includes any other work necessary or convenient for the use, operation, or maintenance of a work to which sub-clause (i) or (ii) applies or constructed or operated as a complement of such work;
- "council of a municipality" (m) a reference to the council of a municipality includes the resident administrator of a local government district.

ESTABLISHMENT OF DISTRICTS

- Establishment of districts and boards authorized. 3. (1) There may be established, as herein provided, watershed conservation districts and, in respect of each district, a board having the aims and objects set out in section 14.
 → and each sub-district a committee
- Area to be included in a district. (2) The area included in a district shall be described in the order-in-council establishing the district and, in so far as is practicable, shall comprise all the lands drained by the river,

stream, or surface watercourse named or described in the order-in-council and the tributaries of that river, stream, or watercourse, or such part of those lands as may be described in the order-in-council, together with such other lands as the Lieutenant-Governor-in-Council may deem it necessary or desirable to include in the district.

Submission of request to commission and municipal councils.

4. (1) Where a resolution requesting the establishment of a district is passed by the council of a municipality of which the whole or any part would be included in the proposed district, the minister shall submit the request to the commission for its approval or disapproval and, if it is approved by the commission, he shall submit it for approval or disapproval by the council of each included municipality.

Approval or disapproval of request.

(2) The council of each municipality to which a request has been submitted shall consider it, and shall, by by-law, approve or disapprove it within sixty days after it has been submitted to it; and the council shall notify the minister of its decision thereon.

Establishment of district.

5. (1) Where a by-law has been passed by the council of each included municipality as provided in section 4, the minister shall submit the matter of the establishment of the district to the Lieutenant-Governor-in-Council; and, subject to subsection (2), the Lieutenant-Governor-in-Council shall, by order-in-council, establish the district and the board having jurisdiction in respect thereof.

Effective date of establishment.

(2) An order-in-council establishing a district is not a regulation to which The Regulations Act applies; but any such order-in-council does not have any force or effect until it has been published in one issue of *The Manitoba Gazette*, and is effective on, from, and after, the date of that issue.

Notice of establishment of district.

(3) When an order-in-council establishing a district is in effect, the minister shall give written notice thereof to the council of each included municipality; and the council shall thereafter proceed as herein provided.

Evidence of establishment.

(4) The publication of an order-in-council as provided in subsection (2) is conclusive evidence of the establishment of the district, and

(a) that compliance has been made with all requirements of this Act relevant to the establishment thereof; and

(b) without restricting the generality of clause (a), that

(i) a by-law has been duly passed, as required by section 4, by the council of each included municipality; and

(ii) that the by-law complies with all requirements of The Municipal Act.

Order-in-council establishing a district.

6. (1) An order-in-council establishing a district shall, subject to subsection (2) of section 3, set out

(a) the boundaries of the district;

(b) the number of wards into which the district is divided ^{divided} and, subject to subsection (2), the boundaries of each ward;

(c) the name and number of the district, which shall be in the words: "The Watershed Conservation District, No.";

(d) the name and number of the board of the district, which shall be in the words: "The Board of Watershed Conservation District, No." *(inserting as hereinbefore indicated, the name and number chosen for the district)*; and

(e) subject as herein specifically provided, such other matters relating to the organization and procedure of the board of the district as the minister may deem necessary or advisable.

Wards of equal assessed value.

(2) Each ward of a district shall comprise lands the equalized assessed value of which is, in so far as is practicable, approximately the same as the equalized assessed value of the lands comprised in each other ward of the district.

Powers of L.-G.-in-C. respecting districts.

7. (1) The Lieutenant-Governor-in-Council, on the recommendation of the minister, may, subject to subsection (2),

(a) vary, add to, or diminish the area of any district;

(b) consolidate any two or more districts, divide any district into two or more districts, or abolish any district;

(c) ^(b d) authorize the board of a district to abandon any water control works or operations in the district;

(d) authorize or require the board of a district to repair, maintain, or operate, any water control works or

carry on any operations within the district to the extent necessary to comply with the intent of this Act.

Limitation
on recommen-
dation of
minister.

(2) The minister shall not make a recommendation under subsection (1) unless he has been requested to do so by the board of a district affected, and the request is approved by the commission, by resolution of the council of each included municipality affected, and by the board of each other district affected, if any.

Abolition of
a district.

(3) Where a district is abolished, the Lieutenant-Governor-in-Council may give all such orders, take all such measures, and make all such provisions, as may be necessary to give effect to the abolition and provide for such financial or other adjustments as may be required between municipalities, other persons, and bodies.

Altered or
consolidated
districts.

(4) A district, as it may be altered or consolidated under this section, constitutes the district for the purposes of this Act.

Abandoned
works.

(5) Any water control works or operations abandoned are not thereafter subject to this Act.

Works or
operations
subject to Act.

(6) Any water control works or operations authorized to be repaired, maintained, operated, or carried on, by the board of a district are subject to this Act.

DISTRICT BOARDS

District board.

8. (1) There shall be a board for each district.

Membership
of board.

(2) The board for a district shall consist of

(a) one member appointed from time to time by the Lieutenant-Governor-in-Council, who shall be the chairman of the board;

(b) subject to subsection (4), one member for each ward of the district appointed from time to time by the council of the included municipality in which the ward is situated; and

(c) if so determined by resolution of a majority of all the members appointed under clause (a) and under clause (b) or subsection (4), one additional member named in that resolution.

Appointment
of members
of board.

(3) Following receipt of notice from the minister under subsection (3) of section 5, and thereafter at its first meeting in each year after the establishment of a district, the

council of each included municipality shall, subject to subsection (4) and to the regulations, by resolution appoint the member of the board to represent each ward that is wholly situated in the municipality.

Appointment of member to represent ward in more than one municipality.

(4) Where a ward is situated in more than one municipality,

(a) the councils of those municipalities shall, by agreement, appoint one person to represent the ward on the board; or

(b) if the councils cannot agree on the person to be appointed, the director of Water Control and Conservation shall call a meeting of the members of the councils of each of those municipalities on a day, and at a time and place, stated in a written notice given by him to the clerk of each of those municipalities not less than two weeks before the meeting; and the members of those councils shall attend the meeting and, by resolution approved by the votes of the majority of those present and voting, shall appoint the member of the board to represent that ward.

Members to be resident ratepayers.

(5) No person, except the chairman, shall be appointed unless he is resident in the district and is a ratepayer in respect of lands in the district.

Notice of appointment given to minister.

(6) The council of each included municipality shall, immediately after the appointment by it of any person as a member of the board of a district, advise the minister in writing of the name of the person appointed; but in case of an appointment under subsection (4), the director shall notify the minister thereof.

Term of office.

(7) Each member of a board shall hold office for such period as is fixed in the regulations and thereafter until his successor is appointed.

Appointment by minister on failure by municipality.

(8) Where an included municipality fails to appoint any one or more of the members of the board within sixty days after the receipt of a notice from the minister as provided in section 5, the minister may appoint one or more persons as members of the board to fill the vacancy or vacancies occurring by reason of the failure of the municipality to appoint as aforesaid.

Chairman of more than one board.

(9) A person who is appointed chairman of a board shall be a member of the civil service of the province and may be

appointed chairman or a member, or both, of any other board, or of the boards of all districts; and the person who is chairman of the board of maintenance trustees of one or more drainage maintenance districts under The Land Drainage Arrangement Act may be the chairman of the board of one or more districts under this Act.

**Meetings
of board.**

9. (1) Subject to the regulations, each board shall hold meetings during the year at such times and at such places, as are fixed from time to time by resolution of the board.

**Quorum and
procedure of
board.**

(2) A majority of the members of the board are a quorum for the transaction of business, and, subject to the regulations, they may make and adopt rules regulating the transaction of business, and may provide therein for the appointment of committees to which they may delegate any of their powers and authority, for the purpose of carrying out the work entrusted to them.

**Voting by
chairman.**

(3) Subject to clause (c) of subsection (2) of section 8, the chairman shall not vote on any question before the board except in the case of an equality of votes, when he shall have the casting vote.

Majority vote.

(4) All questions at a meeting of the board shall be decided by a majority of votes.

Head office.

(5) The head office of the board may be outside the district.

**General power
as to by-laws.**

(6) Except as herein otherwise provided, a board may enact by-laws for which no specific authority is granted herein and that are not contrary to law,

(a) for governing its proceedings and the conduct of its affairs and business; and

(b) respecting the calling of meetings of the board;

and, generally but subject to the same exception, may make such other by-laws and regulations within the scope of its objects as the good of the district requires.

**Recording
of by-laws.**

(7) Every by-law of a board shall be recorded in the minutes thereof under the seal of the board and shall be signed

(a) by the chairman or the person who presided at the meeting at which the by-law was passed; and

(b) by the secretary.

Proof of
by-laws, etc.

(8) A copy of a by-law or resolution of the board written or printed, under seal of the board, and certified by the secretary under his hand to be a true copy, shall be received as evidence in any court or other tribunal without proof of the seal or the signature of the secretary.

Incorporation.

10. (1) Upon the establishment of a district the members of the board of the district and their successors in office are a body corporate and politic under the name of the board as set out in the order establishing the district.

Change of
name.

(2) The minister may, on petition of the board, and upon such notice to the included municipalities as he deems sufficient, change the name of the district and make the consequent change in the name of the board as a corporate body and otherwise; in which case notice of the changes shall be published in *The Manitoba Gazette*.

Liability,
etc., of board
unchanged.

(3) A change in the name of the district and in the name of the board thereof does not affect any obligation, liability, right, or right of action, of the board existing at the time of the change.

Seal.

11. (1) The board shall, at its first meeting, adopt a corporate seal.

Use of seal
after change
of name.

(2) Where the name of a district and of the board thereof is changed as provided in section 10, the seal used by the board before the change of the name of the district shall continue to be its seal until another is adopted.

Appointment
of staff.

12. (1) A secretary and a treasurer for each board, who shall be members of the civil service of the province, may be appointed as provided in *The Civil Service Act*; and every person so appointed shall

(a) as may be prescribed by the Lieutenant-Governor-in-Council, discharge the duties of, and hold, any office authorized by law; and

(b) be paid a salary or other remuneration as provided by law.

Secretary-
treasurer.

(2) In lieu of the appointment of a secretary and a treasurer of the board of a district, one person may be appointed, as provided in subsection (1), as secretary-treasurer of the board.

- Duties of secretary, etc.** (3) The secretary or secretary-treasurer of each board shall keep a complete and correct record of the proceedings of the board and of each committee appointed by it; and he shall perform such other duties as the board may from time to time direct.
- Multiple appointments.** (4) A person may be appointed as secretary or as treasurer or as secretary-treasurer of the board of more than one district.
- Holding of other appointments.** (5) A person is not prohibited from being appointed as secretary or treasurer or secretary-treasurer of the board of a district under this Act by reason only of the fact that he is secretary or accountant of a board of maintenance trustees of a drainage maintenance district under The Land Drainage Arrangement Act.
- Appointment of other staff.** (6) The board of a district, with the approval of the commission, may appoint such officers and servants and casual employees as may be necessary and fix and pay their remuneration.
- Bonding of officers.** **13.** (1) The board of each district shall cause the chairman and the treasurer or secretary-treasurer of the board each to be bonded against loss occasioned by his default, malfeasance, misfeasance, non-feasance, dishonesty or neglect of duty, by a corporation licensed to carry on the business of guarantee or fidelity insurance in Manitoba, in the manner, and for the amounts, from time to time prescribed by the Comptroller-General; and the board shall pay the premiums therefor out of its funds.
- Status as civil servant not affected.** (2) Where a person who holds an appointment in the civil service within the meaning of The Civil Service Act, or who is an employee within the meaning of The Civil Service Superannuation Act, has been or is appointed chairman, secretary, treasurer, or secretary-treasurer, of the board of a district, he does not, by reason only of that appointment, cease to be a member of the civil service or an employee as aforesaid.
- Remuneration of board members.** (3) Except for the chairman and any other member of the board who is a member of the civil service of the province, or is in the regular employment of a municipality, the members of a board may, if so authorized by by-law of the board, be paid and accept remuneration for time spent, and expenses incurred, in attending to the business of the district; but any such remuneration shall be in an amount, or at a rate, approved by the commission and shall not exceed the remuneration payable to members of a municipal council under The Municipal Act, and shall be paid from the funds of the board.

**Aims, objects,
and powers,
of board.**

14. (1) The aims and objects of the board of a district are to promote the conservation and control of the water resources within the district and, for that purpose, it shall, subject to subsection (3) and to The Water Rights Act, study, undertake, put into effect, operate, or maintain, a scheme in respect of the district for the purpose of conserving, controlling, developing, protecting, restoring, or using,

(a) the water resources within or available to the district; and

(b) the land, forest, wildlife, and recreation resources within the district;

as may be necessary or incidental to the achievement of those aims and objects.

**Jurisdiction
of board.**

(2) Subject to subsections (3), (4), (5), and (6), and to section 35 and to The Water Rights Act, the board in furtherance of its aims and objects, has jurisdiction, authority, and control, over all matters within the scope of its aims and objects and for the purpose of which a scheme may be put into effect.

**Limitation on
jurisdiction.**

(3) The jurisdiction, authority, and control, of the board of a district do not extend to water control works

(a) that, on the date of the establishment of a district, are under the direction or control of the government or a municipality and the authority over, and control of, which is not thereafter taken over by the board as provided in section 16; or

(b) the authority over, and control of, which for the purposes of maintenance and operation has been transferred as provided in section 16.

**Works for
supply of
potable
water.**

(4) Subject to subsection (5), in the exercise of its powers and the furtherance of its aims and objects the board of a district does not have jurisdiction, authority, or control, over the construction and operation of water control works the primary purpose of which is the supply and distribution of potable water and that are constructed and operated under The Water Supply Districts Act or The Manitoba Water Supply Board Act.

**Rights of
board of
district.**

(5) Where, under The Water Supply Districts Act or The Municipal Act, a water district or a municipality is about to, or proposes to, construct works for impounding water for the primary purpose of supplying potable water within a watershed conservation district, the board of that watershed con-

servation district has, subject to The Water Rights Act, the prior right to develop, construct, and operate, at its expense, the impounding works and to sell water for potable use to the water district or the municipality, or to authorize the construction and operation of impounding works by the water district or the municipality in such manner as to comply with the overall scheme of development for the watershed conservation district.

Settlement of
conflicting
jurisdiction.

(6) Should there be conflict between this Act and any other Act of the Legislature respecting the construction, maintenance, or operation, of water control works, or should doubt arise as to whether the board of a watershed conservation district or board, commission, or other authority established under any other Act of the Legislature has jurisdiction, authority, or right of control, in respect of water control works, the minister shall refer the matter to the Lieutenant-Governor-in-Council who shall, by order-in-council, determine, in the interests of good administration, which of those Acts should prevail in respect of the matter or which board, commission, or authority, should exercise jurisdiction, authority, and control, in respect of the matter.

Effect of
order-in-
council.

(7) An order made under subsection (6) is final and not subject to appeal and shall be conclusively deemed to be a decision as to administrative procedure and practicability and not as to legal rights or as interpretative.

Termination
of municipal
authority.

15. (1) Where, on the establishment of a district, any rights, jurisdiction, authority, or control are, under The Municipal Act or any other Act of the Legislature, vested in a municipality with respect to

(a) the reclamation and use of flooded, wet, or low-lying lands or shore lands or;

(b) the deepening, dredging, altering, or diverting of watercourses or bodies of water; or

(c) the constructing, enlarging, prolonging, or extending, of drains or common sewers; or

(d) the providing of a supply of water by excavating or constructing reservoirs or in any other manner; or

(e) the construction, operation, or maintenance, of drainage works or water control works; or

(f) the control of natural watercourses, surface watercourses, or surface flooding; or

(g) the use and development of land in any way that relates to, or affects, the conservation of water resources within the district;

the municipality shall not thereafter have or exercise within the district those rights or that jurisdiction, authority, or control, but, subject to subsection (4) of section 14 and to subsection (2) of this section, the rights, jurisdiction, authority, and control, may be exercised by the board of the district as herein provided.

Exceptions to transfers.

(2) The vesting in the board under subsection (1) of the rights, jurisdiction, authority, and control, therein mentioned does not apply to, or affect, the exercise of rights, jurisdiction, authority, or control with respect to, water control works or drainage works

(a) that, on the date of the establishment of the district, are under the direction or control of a municipality and the authority over, and control of, which is not thereafter taken over by the board as provided in section 16; or

(b) the authority over, and control of, which for purposes of maintenance and operation has been transferred to a municipality as provided in section 16.

General powers of board.

16. (1) For the purpose of achieving its aims and objects, and without limiting the generality of any other provision of this Act but subject to The Water Rights Act, the board of a district may do any of the things hereinafter mentioned, that is to say:

(a) The board may study and investigate, or cause to be studied and investigated by the technical staff of the department, such resources of the district as may be necessary to prepare a scheme as provided in section 14 and prepare, present, and recommend to the commission such a scheme; and for that purpose may, by its authorized agent, enter on any land subject to the payment of compensation for any damage caused thereby.

(b) Upon receiving written approval of the commission to any such scheme, the board may undertake the construction, alteration, improvement, maintenance, repair, or operation, of any water control works for which provision is made in the scheme or otherwise implement the scheme, either directly in the name of the board or indirectly, by agreement with the minister, in the name of the minister as its agent.

(c) If the work to which reference is made in clause (b) is undertaken by the board, it may pay the total cost of the work and upon completion thereof receive all or any part of the cost from any other person or organization.

(d) If the work to which reference is made in clause (b) is undertaken and paid for by the minister, the board may pay its share of the cost of the work to him.

(e) Subject to the approval of the commission and of the Lieutenant-Governor-in-Council, the board may take over from any included municipality jurisdiction, authority, and control, over any water control works in the district existing on the establishment thereof, including the maintenance, operation, and reconstruction, of any such existing works that were under the authority of the municipality prior to the establishment of the district, and that may be considered necessary by the board for the achievement of its aims and objects.

(f) On the recommendation of the commission, and with the consent of any included municipality affected and of any other person affected, and subject to the approval of the Lieutenant-Governor-in-Council, the board may transfer, for the purposes of maintenance and operation, to an included municipality or other person, jurisdiction, authority, and control, over any water control works in the district that the board deems should be under that jurisdiction, authority, and control; and thereafter the board has no jurisdiction, authority, or control; over or with respect to those water control works.

(g) The board may enter into an agreement with the owner of any land for the carrying out of any scheme or conservation practice considered necessary by the board for the purpose of achieving its aims and objects; and, without limiting the generality of the foregoing, it may enter into any such agreement for the purpose of

(i) the planting of trees or other shelter belts on eroded lands or on lands on which, in the opinion of the board, erosion may occur;

(ii) the retirement of land to permanent or temporary forage cover;

(iii) the exclusion of animals from eroded or steep forest lands to permit or retain stabilization;

(iv) the protection of watercourses, streams, rivers, lands adjacent thereto, and any other lands over which water may intermittently run, or is required to run; or

(v) the storage of water, or the retarding of the flow thereof, for any purpose within the aims and objects of the board.

(h) The board may prohibit, except under written permit, the cutting of protection forest from land within a district, or the altering of surface water channels within the district.

(i) The board may recommend to the commission the acquisition by the Crown, by purchase, lease, or otherwise, of any real or personal property deemed by the board to be necessary for the achievement of its aims and objects; and the commission, if it approves the recommendation, may send it to the minister and notify him of its approval; but in any such case the compensation payable, if any, shall be deemed to be part of the cost of the work and the board shall pay it or such part thereof as may be agreed between the minister and the board.

(j) Where land is acquired by the Crown and the Crown leases the land to the board or gives to the board a licence to use and occupy it under The Department of Agriculture and Conservation Act, if the board subsequently finds that the land is no longer required by it for its purposes, it shall pass a resolution to that effect and send a copy thereof to the minister.

(k) The board may enter into any such agreement or contract with any person for the purchase or sale of materials, equipment, and supplies, and for any other purpose, as may be necessary for the carrying out of any investigation or scheme approved by the commission, including the maintenance, operation, and protection, of any water control works constructed or acquired by or on behalf of the board or over which the board has jurisdiction, authority, or control.

(l) Subject to the approval of the commission, the board may enter into an agreement with the government or any agency of the government, any municipality, or any other corporate authority or any person (but not in-

cluding the Government of Canada or any agency thereof) for the purpose of achieving its aims and objects.

(*m*) Subject to the approval of the commission, the board may use or authorize the use of, any lands or water control works acquired or constructed by the board or on behalf of the board, or that are under its jurisdiction, authority, or control for recreation purposes, or may erect, or permit to be erected, buildings and facilities for any such purposes and make charges for admission thereto and for the use thereof.

(*n*) With the approval of the commission the board may

(*i*) subject to The Water Rights Act, sell water from reservoirs constructed or operated by the board; or

(*ii*) sell hay or any other crops grown on lands under the jurisdiction, authority, and control of the board.

(*o*) The board may undertake, within or adjacent to the district, educational programs of any kind that will assist in the achievement of its aims and objects.

(*p*) Subject to the approval of the commission, the board may acquire by purchase, lease, or otherwise, take title to, and hold, such land as it deems necessary or useful for the achievement of its aims and objects.

(*q*) The board, by its authorized employees or agents and subject to the approval of the commission, may enter on, acquire, take, use, and expropriate without the consent of the owner, any land that it deems necessary or useful for the achievement of its aims and objects.

Crediting of
sundry
receipts.

(2) The proceeds of any charges made under clause (*m*) of subsection (1) and of any sales made under clause (*n*) of subsection (1) and of any sale of personal property made by the board, shall be credited to the general revenues of the board.

FINANCIAL

Determination
of amount of
annual levy.

17. (1) At its first meeting in each year and not later than the fourteenth day of February, the board of each district shall, subject to subsection (2) and to subsection (2) of section 21, determine the amount that it will require in that year to carry on the affairs of the district including the operation

and maintenance of all water control works under the jurisdiction, authority, or control of the board, and the payment of all other expenses, but not including the payment of interest and principal due in respect of borrowed moneys.

Limitation. (2) The amount determined under subsection (1) in each year shall not be

(a) less than the amount that would be raised by a levy of one mill on each dollar, or

(b) greater than the amount that would be raised by a levy of ten mills on each dollar,

of the sum of the equalized assessed values of the rateable property in all of the included areas.

Determination of further amount. (3) In addition to the amount determined under subsection (1), the board shall at the same time determine the amount that it will require in that year to pay the interest and principal due that year and previous years in respect of borrowed moneys and remaining unpaid.

Apportionment. (4) The board shall apportion the total of the amounts determined under subsections (1) and (3) among the included municipalities on the basis of the equalized assessed value of the rateable property in each included area.

Appeal by ratepayers from levy. (5) Twenty per centum of the ratepayers of a district may appeal to The Municipal Board from any apportionment made under subsection (4); and that board shall either confirm the apportionment or make a new one, and its decision thereon shall be final.

Levy of tax. (6) Subject to subsection (2) of section 21, the board shall, not later than the last day of February in each year, forward to each included municipality a statement of the amount apportioned to it in respect of that year; and the statement shall be in such form, and contain such particulars, as may be prescribed in the regulations; and the municipality shall thereupon levy and collect as a special rate a tax on the assessed value of the lands not exempt from municipal taxation or other rateable property, or both, within the included area for the purpose of making payment to the board of the amount of its apportionment.

Payment of amount apportioned. (7) Each included municipality shall, in each month after making a levy under subsection (6) in any year, pay to the board the amount collected in that month under the levy, and, except in the case of a local government district, shall pay to

the board the balance of the amount apportioned to it under subsection (4) in respect of that year before the first day of April in the next following year.

Special levy on part of municipality to cover deficit.

(8) Where an included area does not comprise the whole of a municipality, if in any year the amount collected under subsection (6) or under this subsection is not sufficient to pay the amount apportioned to the municipality in respect of the included area, and those amounts have been paid by the municipality from its general funds, the municipality may, in any subsequent year, levy and collect, as an additional special rate, a tax from the lands and rateable property not exempt from taxation within the included area for the purpose of reimbursing its general funds the amount of the deficiency paid therefrom as aforesaid.

Borrowing.

18. (1) For the purpose of the construction, repair, improvement, replacement, or extension, of water control works in respect of which it has jurisdiction, authority, or control, or for the purpose of repaying, redeeming, or refunding, the whole or part of the moneys borrowed by it under this Act and secured by debentures as herein provided, the board of a district, on the authority of a by-law of the board and with the approval of the commission and subject to subsections (2) and (3), may borrow moneys up to an amount authorized by the commission, but not exceeding an amount equal to five per centum of the equalized assessed value of the rateable ~~property~~ in the district; and for that purpose the board may issue debentures of the board as security for the moneys borrowed.

Borrowing under 1% of assessed value of lands.

(2) Where the amount to be borrowed under subsection (1) together with the balance of moneys previously borrowed and secured by debentures and remaining unpaid, and any interest thereon that is due and unpaid, does not exceed an amount equal to one per centum of the equalized assessed value of the rateable ~~property~~ in the district, the moneys may be borrowed if the by-law of the board is approved by resolution of the councils of included municipalities the equalized assessed value of the rateable ~~property~~ in the included areas of which is more than half of the equalized assessed value of all the rateable ~~property~~ in the district.

Borrowing up to 5% of assessed value of lands.

(3) Where the amount to be borrowed under subsection (1) together with the balance of moneys previously borrowed and secured by debentures and remaining unpaid, and any interest thereon that is due and unpaid, exceeds an amount

equal to one per centum, but does not exceed an amount equal to five per centum, of the ~~equalized~~ assessed value of the rateable ~~property~~ in the district, the council of each included municipality shall

(a) give first reading to a by-law to approve the borrowing;

(b) apply for the authorization of The Municipal Board thereto, as provided in The Municipal Act and The Municipal Board Act; and

(c) submit the by-law for the assent of the ratepayers in its included area as in the case of a by-law submitted under Part V of The Municipal Act;

and the moneys shall not be borrowed unless the authorization of The Municipal Board thereto has been obtained and three-fifths of the total number of ratepayers voting on the by-laws in all the included areas as provided in Part V of The Municipal Act have assented to the borrowing as approved by the by-laws submitted, whether or not it has received the assent of three-fifths of the ratepayers, or of a majority of the ratepayers, in each included area.

**Tabulation
of vote.**

(4) The clerk of each included municipality shall prepare a statement of each vote taken under subsection (3) and forward it to the board, which shall prepare a combined statement showing the result of the vote in all the included municipalities and shall send a copy thereof to each included municipality.

**Form of
debentures,
rate of in-
terest, etc.**

(5) Subject to subsection (6), debentures issued under this section shall be in such form, and the moneys secured thereby shall bear such rates of interest, and shall be payable as to principal, interest, and premium, if any, at such times and places, in such amounts, and in such manner in all respects, as the commission may determine.

Idem.

(6) The debentures authorized under subsection (1) shall bear the seal of the board and, together with any coupons attached thereto, shall bear the manual, engraved, lithographed, printed, or otherwise mechanically reproduced, signatures of the chairman and of the secretary or secretary-treasurer of the board; and any such mechanically reproduced signatures shall, for all purposes, be valid and binding upon the board if the debenture bearing it, or to which the coupon

bearing it is attached, is countersigned by an officer appointed by the board for that purpose.

Approval of
commission
and certificate.

(7) Debentures issued by the board of a district are not valid unless approved by the commission as herein provided; and a certificate of the commission certifying that the debentures have been duly authorized and issued is conclusive evidence of that authorization and issue.

Taxes as
security for
debentures.

(8) All taxes for the levying and collection of which provision is made in section 17 are hereby charged as security for the payment of moneys borrowed and secured by debentures as herein provided.

Accumulation
of surplus.

19. A board may accumulate surplus current funds from year to year; but the total of the amount so accumulated shall not at any one time exceed an amount equal to one per centum of the ~~equalized~~ assessed value of the rateable ~~property~~ in the district.

Borrowing
from bank,
etc., for
temporary
purposes.

20. The board of a district may for temporary purposes

(a) on the authority of a by-law of the board,

(i) borrow money on the credit of the district from any bank, by way of overdraft or otherwise, in the course of any year in anticipation of the receipt from the included municipalities of the proceeds of taxes to be levied and collected and paid to the board as provided in section 17, or in anticipation of the raising of money by way of loan on the security of debentures as herein provided;

(ii) pay interest upon the moneys so borrowed as may be required;

(iii) subject to subsection (8) of section 18, hypothecate, pledge, and assign to the bank as security for the moneys borrowed, the moneys that are the proceeds of the taxes that are to be levied and collected by the included municipalities in respect of that year and paid to the board; and

(b) enter into any agreement for the purposes aforesaid that may be deemed by the board to be necessary or expedient.

Gifts to board.

21. (1) The board of a district may receive, accept, hold, possess, and enjoy such grants, devises, gifts, and bequests

as are made for the use and benefit of the board by any government, corporation, or person.

Grants in lieu of tax levy.

(2) Where, in any years, a district is established after the date on which, in any included municipality, the tax roll in respect of that year has been completed, the board shall forthwith proceed as provided in section 17; but instead of proceeding as provided in subsection (4) of section 17, the council of each included municipality may, by by-law, make a grant to the board from the general funds of the municipality of the whole or part of the amount apportioned to the municipality in respect of that year, as may be agreed between the board and the council, and the board may accept and use the moneys so granted; and, if at the end of the year the board has not expended the whole of the moneys so granted, the balance may be retained and accumulated under section 19.

Investment of funds.

(3) Every board is trustee of the funds in its possession or control, and it shall manage and administer them as herein provided; and it shall pay to the Provincial Treasurer to invest on its behalf its surplus funds and any funds granted, given, or bequeathed to it that it is required or permitted to invest under the terms of the grant, gift, or bequest; and those funds shall be invested in bonds or debentures issued or guaranteed by the Government of Canada or by the government of any province of Canada, or issued by a municipality, a school district, a school area, a secondary school area, or a school division, in Manitoba, and in no other security or form of investment.

THE COMMISSION

Establishment of commission.

22. (1) There shall be a commission which shall be called: "The Watershed Conservation Commission"; and which shall have powers and duties as herein provided.

Membership of commission.

(2) The commission shall consist of

(a) The Director of Water Control and Conservation of The Department of Agriculture and Conservation, who shall be chairman of the commission;

(b) the Director of the Soils and Crops Branch of The Department of Agriculture and Conservation;

(c) the Assistant Deputy Minister of The Department of Mines and Natural Resources;

(d) a person who is the chairman of a board or boards of one or more districts and is appointed a member of the

commission by order of the Lieutenant-Governor-in-Council; and

(e) such other members, if any, as the Lieutenant-Governor-in-Council may appoint.

**Election of
vice-chairman.**

(3) At the first meeting of the commission and thereafter at the first meeting in each year, the members of the commission shall elect a vice-chairman from among the members.

**Duties of
vice-chairman.**

(4) The vice-chairman shall act as chairman during the absence or illness of the chairman, or at any time when, for any other reason, the chairman is unable to act, or at any time at the request of the chairman or of the minister.

Quorum.

(5) A majority of the members of the commission constitutes a quorum thereof.

**Establishment
of committees.**

(6) The commission may establish and appoint the members of an executive committee all of whom shall be members of the commission; and may also establish other committees to assist it in carrying out its duties, and may appoint the members thereof who need not be members of the commission.

**Power to
make by-laws,
rules, etc.**

(7) The commission may make by-laws and rules, not inconsistent with this Act or the regulations, for the governance of its proceedings and the conduct of its affairs and business; but the by-laws and rules shall have no effect until they are approved by the Lieutenant-Governor-in-Council.

Meetings.

(8) The commission shall hold regular meetings as may be provided in its by-laws and rules; and shall meet at any other time on request of the minister, at the call of the chairman, or on the written request of two members addressed to the secretary.

**Appointment
of staff and
remuneration.**

(9) A secretary to the commission and such other clerical assistance as may be necessary for the conduct of the business of the commission may be appointed as provided in The Civil Service Act; and every person so appointed shall,

(a) as may be prescribed by the Lieutenant-Governor-in-Council, discharge the duties of, and hold, any office authorized by law; and

(b) be paid a salary or other remuneration as provided by law.

**Payment of
remuneration
and expenses.**

(10) The members of the commission may be paid and, notwithstanding The Civil Service Act, may accept, remunera-

tion in such amounts as may be fixed by order of the Lieutenant-Governor-in-Council; and there shall be paid to each member thereof such actual travelling and other necessary out-of-pocket expenses as may be incurred by him in discharging his duties as a member of the commission and as are approved by the Comptroller-General.

Duties of
commission.

23. (1) The commission shall

(a) advise the minister at his request, or of its own motion, as may be required from time to time, in all matters relating to this Act and the administration and operation thereof;

(b) give such advice and guidance to the board of any district as the board may request or as may be required herein;

(c) consider such matters, and discharge such other duties relative to this Act, as the minister may request it to consider or perform; and

(d) when so authorized in writing by the minister, make such inquiries, investigations, and surveys, as the minister may deem advisable in respect of any matters or things that are the subject of, or are dealt within, this Act, or to which this Act applies, or are of a nature similar to any such matters or things.

Powers of
commission
re inquiries,
etc.

(2) For the purposes of any inquiry, investigation, or survey, made by it the commission shall have the like protection and powers as are conferred upon commissioners appointed under Part V of The Manitoba Evidence Act.

Approval of
minister to
appointments.

(3) No person shall be employed by the commission for the purpose of assisting in the making of any such inquiry, investigation, or survey, without first obtaining the written approval of the minister to the employment.

Payment of
costs of inquiries,
etc.

(4) The costs and expenses of any such inquiry, investigation, or survey, including the salary, wages, or other remuneration, of any person engaged to assist in the making thereof, shall be paid from and out of the Consolidated Fund with moneys annually authorized by an Act of the Legislature to be paid and applied for the purposes of The Department of Agriculture and Conservation, and from the proper appropriation therefor as shown in greater detail in the annual Estimates of the government.

GENERAL

- Appeal against board order, etc.** **24.** (1) Any ten or more ratepayers owning land within a district may, by written notice, appeal to the commission against any by-law, resolution, order, or action made or taken by the board of the district, other than in respect of a matter to which subsection (3) of section 17 applies.
- Notice of appeal.** (2) Persons appealing under subsection (1) shall give a copy of the notice of appeal to the secretary or the secretary-treasurer of the board and the clerk of each included municipality within seven days after filing the notice of appeal with the secretary of the commission.
- Notice of hearing.** (3) On ^{receipt}~~receipt~~ of the notice of appeal, the commission shall notify the appellants and the board and each included municipality of the date on which, and the time and place at which, it will hear the appeal.
- Hearing and order.** (4) The commission shall sit and hear the appeal on the date, and at the time and place, fixed in the notice, or at any subsequent adjournment of the hearing of which all persons interested have had due notice; and the commission shall hear all persons interested in the matter and others who desire to be heard on behalf of any of them, and, by its order, the commission may confirm or disallow the by-law, resolution, order, or action of the board or direct that it be amended, modified, or changed in so far as may be practicable and reasonable and consistent with this Act.
- Effect of order.** (5) An order of the commission made under subsection (4) is binding on the board, the included municipalities, and the appellants and each of them; and they and each of them shall comply therewith.
- Supervision of work and expenditures.** **25.** (1) Subject to subsection (2), all work of an engineering nature undertaken by the board of a district shall be carried on under the direction of an engineer of The Water Control and Conservation Branch of the department and all other work shall be carried on, and all expenditures shall be made, under the direction of the minister through the agency of the appropriate personnel of the department, or as may be otherwise directed in writing by the minister.
- Supervision of small works.** (2) Work of which the cost does not exceed three hundred dollars, done at one place at one time, may be done under the

supervision of any member of a board if the member certifies the account therefor in writing over his signature.

Execution of documents. **26.** (1) All contracts, obligations, or documents, requiring to be formally executed by the board of a district shall be executed under the seal of the board and signed by the chairman and the secretary or secretary-treasurer.

Copies of certain agreements sent to Prov. Mun. Assessor. (2) Where an agreement is entered into between the board and a land owner, as authorized under clause (g) of subsection (1) of section 16, the secretary or secretary-treasurer of the board shall immediately forward to the Provincial Municipal Assessor a copy of the agreement.

Exemption from taxation. **27.** Land and personal property acquired for or on behalf of a board, and any personal property and works erected, acquired, or held, by the board for the purposes of this Act is exempt from municipal taxes and school taxes.

Restriction on sales of land by municipalities. **28.** No land in a district owned by a municipality other than a city, town, or village at the date of the establishment of the district, and no land of which the municipality becomes the owner subsequent to the establishment of the district, shall be sold, leased, or otherwise disposed of, without prior written approval of the board.

Bank accounts. **29.** The funds of the board of a district shall be deposited to its credit in a bank and may be drawn upon by the cheques of the board signed by such persons, and in such manner, as may be prescribed by by-law of the board; but, by by-law of the boards of two or more districts, the funds of those boards may be deposited in a consolidated banking account in a bank.

Accounting records. **30.** (1) The board of each district shall maintain accounting records, which shall be in a form satisfactory to the Comptroller-General.

Annual audit. (2) The board shall cause its accounts to be examined, checked, and audited, annually at the expense of the board by an auditor approved by the Comptroller-General, and at a fee approved in advance by him.

Filing of auditor's report. (3) A copy of the report of the auditor shall be filed by the auditor with the Comptroller-General before the thirty-first day of March in each year.

Fiscal year. (4) The fiscal year of the board of each district is the calendar year.

Duty of board
in respect of
works, etc.

31. (1) Subject to subsection (2), the board of each district is responsible for the construction, maintenance, improvement, operation, up-keep, and repair of all water control works, and shall carry on all operations, under its jurisdiction, authority, and control, within the district.

Responsibility
respecting
bridges, etc.

(2) The board is responsible for the maintenance, operation, repair, and reconstruction, of bridges, culverts, and other forms of crossing over only those water control works that have been constructed by the board or are located on or over water control works that have been taken over by the board under section 16.

Limitation on
actions for
compensation.

32. (1) Where, under this Act, a board

(a) acquires any land by expropriation or purchase or leases any land or enters on any land for any purpose; or

(b) constructs, repairs, restores, acquires, or operates, any water control works or other works; or

(c) impounds, releases, stores, dams, or alters, the flow or course of the water in any river, stream, water-course, lake, or other body of water;

if compensation or damages for the land so acquired or land affected or injured by the action of the board, satisfactory to the owner or person having an interest in the land, has not been paid and accepted in full settlement, the owner or person having an interest may bring action in a court having jurisdiction in the matter against the board for the amount claimed, whether his claim is under a contract or for an alleged tort, within fifteen months from the date on which the notice of expropriation is served or the purchase or lease or the entry was made, or the work done by the board was completed; and thereafter he shall not bring any such action and his right to compensation and damages in respect of the land is terminated.

Application
of subsec. (1).

(2) Subsection (1) does not apply to a claim for damages for failure to maintain water control works under this Act if steps are taken in accordance with subsection (3) within the period of fifteen months limitation; but in the latter case the period of fifteen months limitation begins to run on the refusal or failure of the board of the district to comply with the orders or directions of the board to which reference is made in section 24 of The Land Drainage Arrangement Act.

Liability for
failure to
maintain.

(3) The board of a district is not liable for damages caused to any person by any neglect or failure on its part to maintain or keep in repair any water control works, or any part

thereof, unless notice complaining of the damage alleged is first given, and a reference had with regard thereto, as provided in cases to which section 24 of The Land Drainage Arrangement Act applies, and the board neglects or refuses to comply with the decision of the board to which reference is made in section 24 aforesaid; and all the provisions of The Land Drainage Arrangement Act relating to procedure in the case of a claim to which section 24 of that Act applies, apply to a claim to which this subsection relates as if those provisions were embodied in this section.

Conditions arising from natural causes.

(4) Conditions arising from snow, ice, or excessive rainfall shall be deemed not to be caused by any lack of maintenance, protection, or repair, of water control works under the jurisdiction, authority, or control of the board of the district.

Limitation of liability.

33. No member of a board is personally liable for anything lawfully done by him in the course of his duties.

Certain contracts prohibited.

34. (1) No member of a board shall be interested in, either in his own name or in the name of any other person, in any contract entered into or work done for the board; and no member of a board shall derive any profit or emolument that is paid from the funds of the board.

Saving.

(2) Subsection (1) does not prevent members of a board from holding shares in a joint stock company that contracts with the board.

Hydro-Elec. Board and Man. Power Comm'n not affected.

35. Nothing in this Act applies to, or affects, The Manitoba Hydro-Electric Board or The Manitoba Power Commission or Greater Winnipeg Water District, or the powers, rights, and duties, of any of them under The Manitoba Hydro-Electric Development Act or The Manitoba Power Commission Act or The Greater Winnipeg Water District Act or under any other Act or law applicable to them or to any of them.

Application of Municipal Board Act.

36. Except as herein specifically otherwise provided, The Municipal Board Act applies to the board of each district.

Regulations.

37. For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor-in-Council may make such regulations and orders as are ancillary thereto and are not inconsistent therewith; and every regulation or order made under, and in accordance with the authority granted by, this section has the force of law; and, without

restricting the generality of the foregoing, the Lieutenant-Governor-in-Council may make regulations and orders not inconsistent with any provision of this Act, respecting

(a) the appointment of members of boards of districts by the councils of included municipalities;

(b) fixing the terms for which members of boards shall hold office;

(c) respecting the holding of meetings of boards;

(d) respecting the procedure to be adopted at meetings of boards;

(e) designating as "protection forest" forests of the kind described in clause (k) of subsection (1) of section 2.

Cutting of protection forest prohibited.

38. (1) No person shall cut down or remove any trees growing in a protection forest within a district, without first obtaining a permit in writing from the board.

Altering of watercourses, etc., prohibited.

(2) No person shall deepen, widen, divert, stop-up, fill in, break up, cut brush in, or in any way alter the flow of waters through, over, or upon, any surface watercourse or natural watercourse, drainage channel, stream, or creek or any continuous depression in land through which surface water runs continuously or intermittently, within a district, without first obtaining a permit therefor from the board; but the authority granted by any such permit is subject to The Water Rights Act.

Damaging water control works prohibited.

(3) No person shall damage or in any manner impair the usefulness of any water control works or other property under the jurisdiction, authority, or control, of the board.

Damaging notices, etc.

(4) No person shall remove, deface, cut down, destroy, or in any way interfere with, any notice, post, sign, or other erection or structure, in or upon any water control works

(a) that has been placed therein or thereon by or under the authority of the engineer in charge of the water control works or by or under the authority of any other person authorized by the board of the district to place or post up any such notice, post, sign, or other erection or structure; and

(b) that has been so placed or posted up for the purpose of denoting lines or levels, or for other purposes in connection with the water control works.

Offence and penalty.

(5) Any person who contravenes, disobeys, or fails or neglects to comply with, any provision of this Act, or fails to observe or carry out, or acts in breach of, an agreement made under clause (g) of subsection (1) of section 16, is guilty of an offence and liable, on summary conviction, to a fine not exceeding five hundred dollars, or to imprisonment for not more than six months, or to both such a fine and such an imprisonment.

Annual report.

39. The director shall make an annual report to the minister respecting the operations of the boards of the districts subsequent to the end of the period to which his latest previous report relates, and, in particular, showing the number of districts, if any, established during the period to which the report relates, details respecting orders made under section 7 during that period, and copies of the auditors' report with respect to the board of each district for that period, as filed with the Comptroller-General; and the minister shall lay the report before the Legislative Assembly, forthwith if it is then in session, and, if not, within fifteen days of the beginning of the next following session thereof.

Powers of minister to act for board, etc.

40. Where any act or thing is in this Act directed to be done by an included municipality, or by a board, or by any officer of the municipality or the board, and whether it is to be done forthwith or within a specified time, if the act or thing is not so done, the minister may do the act or thing with the same effect as if it had been done by the municipality, authority, or officer.

Repeal.

41. The Watershed and Soil Conservation Authorities Act, being chapter 70 of the Statutes of Manitoba, 1958 (First Session), is repealed.

Commencement of Act.

42. This Act comes into force on a day fixed by proclamation.

WINNIPEG

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