

## **Chapter 6105: WATERSHED DISTRICTS**

### **6105.01 Watershed district definitions.**

As used in sections 6105.01 to [6105.21](#), inclusive, of the Revised Code:

(A) "Water resources" means all waters within a watershed district occurring on the surface in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available or may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(B) "Governmental agencies" means departments, divisions, or other units of the state or federal government, political subdivisions, watershed districts, soil conservation districts, conservancy districts, sanitary districts, special water districts, and county and regional sewer and water districts.

(C) "Beneficial use" means a use or control of water, including the method of diversion, storage, distribution, or control, that is reasonable and consistent with the public interest and the proper utilization of water resources for agricultural, industrial, commercial, recreational, public, and domestic uses, or the abatement of floods.

(D) "Person" means any person, firm, partnership, association, or corporation.

(E) "Channel" means the area between definite banks of a natural or artificial watercourse which confine and conduct continuously or periodically flowing water.

(F) "Restricted channel" means the reach in the channel of a watercourse which has been designated as a restricted channel under section [6105.131](#) of the Revised Code.

(G) "Floodway" means that area outside of the banks of the channel of a watercourse reasonably necessary to the efficiency of a channel, river, stream, or watercourse as a means of carrying off flood waters.

(H) "Duly authorized representative" of the board of county commissioners means a county commissioner or county administrator authorized by the board of county commissioners to attend and vote at meetings for the appointment of members of the watershed district board of directors and adoption of the watershed district budget.

(I) "Watershed county" means each county containing territory within the territorial boundaries of the watershed district.

Effective Date: 12-14-1967 .

### **6105.02 Watershed district created.**

A watershed district shall be created upon the filing of a map and a description of such watershed district under division (G) of section [6111.42](#) of the Revised Code.

Effective Date: 06-13-1975 .

### **6105.03 to 6105.05 [Repealed].**

Effective Date: 09-24-1963 .

### **6105.06 Organizational meeting to establish district.**

Within sixty days after a map and description of a watershed district have been filed under division (G) of section [6111.42](#) of the Revised Code, the president of the board of county commissioners of that county or part of a county with a population within the territorial boundaries of the district, according to the last federal decennial census, greater than that of any other county or part of a county within such district shall call a meeting of the president or duly authorized representative of the board of county commissioners of each watershed county for

the purpose of appointing a board of directors for the district and the adoption of an expenditure budget for the district for the current calendar year.

Such meeting shall be called by sending a written notice thereof to each president or duly authorized representative, at least ten days before the date of the meeting, stating the time and place where the meeting will be held.

The president of the board of county commissioners required to call the meeting under this section shall act as chairman of the meeting.

Effective Date: 06-13-1975 .

### **6105.07 Naming district - board of directors.**

At the meeting called under section [6105.06](#) of the Revised Code, the president or duly authorized representative of the board of county commissioners of each watershed county shall, by a majority vote of such presidents or representatives, adopt an official name for the district and appoint a board of directors for the district.

Such board shall consist of five members. By reason of his vocation, employment, or affiliation one of such members shall be classed as a representative of the public, one as a representative of agriculture, one as a representative of industry, one as a representative of public water supply, and one as a representative of public recreation.

Of the five members first appointed, one shall be appointed for a term ending on the thirtieth day of June of the next succeeding calendar year following the date of his appointment, one for a term ending on the thirtieth day of June of the second succeeding calendar year following the date of his appointment, one for a term ending on the thirtieth day of June of the third succeeding calendar year following the date of his appointment, one for a term ending on the thirtieth day of June of the fourth succeeding calendar year following the date of his appointment, and one for a term ending on the thirtieth day of June of the fifth succeeding calendar year following the date of his appointment.

Annually as the term of a member of the board of directors expires, the presidents or duly authorized representatives of such boards of county commissioners shall, by a majority vote at the meeting called under section [6105.16](#) of the Revised Code, appoint a member for a term of five years beginning with the date of the expiration of the expiring term.

Within sixty days after a vacancy occurs in the membership of the board, prior to the time such member's term expires, a special meeting of the presidents or duly authorized representatives of the board of county commissioners of each county containing territory within the territorial boundaries of the district shall be called, in the manner provided under section [6105.06](#) of the Revised Code, for the purpose of filling such vacancy for the unexpired term.

Such presidents or duly authorized representatives shall, at such meeting and by a majority vote of those present, appoint a person to fill such vacancy for the full unexpired term.

Members of such board of directors shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

Effective Date: 12-14-1967 .

### **6105.08 Budget.**

At the meeting called under section [6105.06](#) of the Revised Code, the president or duly authorized representative of the board of county commissioners of each watershed county shall, by a majority vote of such presidents or representatives, adopt an expenditure budget for the watershed district for the remainder of the current calendar year and for the next succeeding calendar year.

The total amount of each of such budgets shall be apportioned among the several watershed counties in the ratio that the taxable value of the real and personal property within such county and within the territorial boundaries of the district bears to the taxable value of all real and personal property within the territorial boundaries of the district.

The amount of the budget for the current calendar year apportioned to each county shall be certified to the board of county commissioners of such county, in writing, by the chairman of the meeting where the apportionment was made.

Upon the receipt of the certification under the next preceding paragraph of this section such board of county commissioners shall adopt an appropriation resolution appropriating the amount so certified, payable out of any moneys to the credit of the general fund of the county not otherwise appropriated, to the order of the watershed district. Upon the passage of such resolution the county auditor shall draw his warrant on the county treasurer to the order of the watershed district in the amount so appropriated and shall, upon the appointment of a secretary-treasurer for the district under section [6105.09](#) of the Revised Code, deliver such warrant to such secretary-treasurer.

The amount of the budget for the next succeeding calendar year apportioned to each county shall be certified to the board of county commissioners of such county, in writing, by the chairman of the meeting where the apportionment was made. Such board of county commissioners shall include such amount in the appropriation resolution for the next succeeding calendar year and upon the passage of such resolution the county auditor shall draw his warrant on the treasurer of the county to the order of the watershed district for the amount so appropriated and shall deliver such warrant to the secretary-treasurer of the district.

Effective Date: 12-14-1967 .

#### **6105.09 Organization of board - meetings.**

Within sixty days after the appointment of the full membership of a board of directors of a watershed district, the board shall meet and organize by selecting from among its members a chairman and a vice-chairman, who shall hold their respective offices until the next annual meeting of the board as provided in its bylaws. At each annual meeting thereafter the board shall elect from its membership a chairman and a vice-chairman who shall serve for a term of one year.

The board shall appoint and fix the compensation of a secretary-treasurer, who shall not be a member of the board and who shall serve at the pleasure of the board.

The board shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings which shall be open to the public for inspection. Special meetings of the board may be called by the chairman and shall be called by him upon receipt of a written request therefor signed by two or more members of the board.

Written notice of the time and place of each meeting of the board shall be sent to each member of the board by the secretary of the board.

A majority of the full membership of the board shall constitute a quorum and no official business of the board may be conducted unless a quorum is present.

The board may employ, fix the compensation, and prescribe the duties of a chief engineer, and such other engineers, consultants, attorneys, employees, and assistants and may make such expenditures as it may deem necessary to carry out the provisions of sections [6105.01](#) to [6105.21](#), inclusive, of the Revised Code.

Effective Date: 09-24-1963 .

#### **6105.10 Secretary-treasurer - bond.**

The secretary-treasurer of a watershed district is the fiscal officer of the district and the custodian of its funds and records and shall assist the board of directors in such particulars as it directs in the performance of its duties.

The secretary-treasurer shall, before receiving any moneys belonging to the district, furnish bond in such amount as is determined by the board of directors of the district with surety satisfactory to it, and all funds coming into the hands of the secretary-treasurer shall be deposited by him to the account of the district in such depositories as are qualified to receive deposits of county funds, which deposits shall be secured in the same manner as county funds are required to be secured. No disbursement shall be made from such funds except in accordance with the rules and regulations adopted by the board of directors of the district.

Effective Date: 12-16-1964 .

#### **6105.11 Power and authority of board.**

All the power and authority granted to a watershed district shall be vested in and exercised by its board of directors.

Upon its organization, the watershed district constitutes a political subdivision of the state, may sue and be sued, and may enter into contracts in furtherance of its powers and duties. The district may receive and accept gifts and grants from persons or any governmental agency, subject to any conditions or terms not inconsistent with the powers and purposes of the district, or not otherwise unlawful.

The board shall, by the adoption of bylaws, rules, and regulations, provide the procedure for its actions and the exercise of the authority granted to it.

Effective Date: 03-18-1969 .

#### **6105.12 Orderly development and beneficial use of the water resources.**

The board of directors of a watershed district, for the purpose of assisting to obtain the orderly development and the most beneficial use of the water resources within the territorial boundaries of the district, may:

- (A) Review and recommend plans for the development of the water resources within the territorial boundaries of the district;
- (B) Recommend appropriate means to resolve water conflicts among water user interests and between geographic areas within the territorial boundaries of the district;
- (C) Make studies and review plans relative to the development of water resources of the district, hold hearings thereon, and make such recommendations as are consistent with the beneficial use of water within the district;
- (D) Prepare a comprehensive plan for the development and control of the water resources within the district for the purpose of promoting the beneficial use of water within the district which plan shall be submitted to the environmental protection agency;
- (E) Counsel with public agencies or private interests seeking advice and assistance relative to the beneficial use of water within the district;
- (F) Assist governmental agencies and private interests in the planning and development of water resources within the district;
- (G) Have access to all information, statistics, plans, and data relative to the water resources of the district which any governmental agency has available;
- (H) Make contracts with any person or agency for the purpose of carrying out sections [6105.01](#) to [6105.21](#) of the Revised Code;
- (I) Designate specific reaches in the channel of any watercourse, within the territorial boundaries of the district, as a restricted channel and any specific area appurtenant to a restricted channel as a restricted floodway under section [6105.131](#) of the Revised Code;

(J) Issue permits authorizing the construction, change, or alteration of a structure or obstruction in a restricted channel or relocation, alteration, restriction, deposit, or encroachment into or change of grade of a restricted channel or floodway under section [6105.133](#) of the Revised Code;

(K) Petition for the creation of a conservancy district or conservancy subdistrict under section [6101.05](#) or [6101.71](#) of the Revised Code.

Effective Date: 10-23-1972 .

### **6105.13 Notification of board of work that may affect public water supply.**

Whenever any person or governmental agency plans to construct or alter any dam, reservoir, or storage basin, for the purpose of storing, conserving, or diverting water, or plans to drill, bore, or dig, a well or wells to provide water for a public water supply, within the territorial boundaries of a watershed district, such person or agency shall, before such construction or alteration or the drilling, boring, or digging of such well is authorized, notify the board of directors of the watershed district, in writing, of such plans. Such notice shall briefly describe such plan, its location, and the purpose for which it is intended.

Effective Date: 09-24-1963 .

### **6105.131 Designation of restricted channels.**

The board of directors of a watershed district may designate a specific reach in the channel of any watercourse within the territorial boundaries of the district as a restricted channel, when the construction or alteration of structures or obstructions within such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, or designate any area outside the banks of a restricted channel as a restricted floodway when such area is reasonably necessary to the efficiency of a restricted channel as a means of carrying off flood waters. Such designation of a restricted channel or restricted floodway shall be made in the following manner:

(A) The board shall adopt a resolution stating its intent to designate a specific reach in a channel of a watercourse as a restricted channel or a specific area as a restricted floodway. Such resolution shall contain a description of the reach of the channel to be designated as a restricted channel or description of the area to be designated as a restricted floodway and the reasons of the board for making such designation.

(B) The board shall cause such resolution to be published as provided in section [7.16](#) of the Revised Code or once a week for two consecutive weeks in a newspaper of general circulation in the county or counties in which such restricted channel or restricted floodway is located, together with a notice of the time and place where a hearing will be held by the board on the question of designating such channel as a restricted channel or such area as a restricted floodway . The board also shall give not less than ten days notice of said hearing by first class mail to all owners of property within the area proposed to be designated as a restricted floodway. The date of such hearing shall be not less than ten days after the completion of the publication provided for by this division.

(C) The board shall hold a hearing at the time and place designated in the notice published under division (B) of this section at which time indorsements of and objections to the designation of such channel as a restricted channel or such area as a restricted floodway shall be heard.

(D) The board may, after the completion of the hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or relocation, alteration, restriction, deposit, or encroachment within the designated reach of such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the reach of the channel described in the resolution of intent adopted under division (A) of this section or any modification thereof as a restricted channel.

(E) In like manner the board may, after completion of a hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or change of grade within a designated floodway area will restrict its capacity or efficiency as a means of carrying off flood water so as to constitute an

unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the area described in the resolution of intent adopted under division (A) of this section, or any modification thereof, as a restricted floodway.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 12-14-1967 .

### **6105.132 Filing designation of restricted channel with county engineer.**

When the board of directors of a watershed district has adopted a resolution under section [6105.131](#) of the Revised Code, designating a specific reach of a channel of a watercourse as a restricted channel or a specific area as a restricted floodway, it shall cause a copy of such resolution and a map and a description of the boundaries of such restricted channel or restricted floodway to be filed in the office of the county engineer of each county in which such restricted channel or restricted floodway is located. Each county engineer shall maintain a restricted channel and restricted floodway record in which shall be placed all resolutions, maps, and descriptions pertaining to restricted channels and restricted floodways filed with the county engineer under this section.

Effective Date: 12-14-1967 .

### **6105.133 Written consent required to affect restricted channel or floodway.**

No person or governmental agency, except a conservancy district or subdistrict thereof organized under Chapter 6101. of the Revised Code, shall construct any structure or obstruction, or make or permit to be made any change or alteration in any structure or obstruction in a restricted channel or restricted floodway, or relocate, alter, otherwise restrict, deposit into, encroach upon, or change the grade of a restricted channel or restricted floodway without first receiving the written consent of the board of directors of the watershed district in which such restricted channel or restricted floodway is located.

Application for such written consent shall be filed with the secretary of the board and shall be accompanied by plans, profiles, specifications, and such other information as the board may require.

The board shall, within sixty days of the date of receipt of such application, grant or refuse its consent to such construction, change, alteration, relocation, deposit, encroachment, or change of grade or may incorporate in and make a part of its consent such conditions, regulations, or restrictions as it deems advisable.

In the event the board refuses to grant its consent to such construction, change, alteration, relocation, deposit, encroachment, or change of grade in a restricted channel or restricted floodway as set forth in the application filed under this section or makes a part of its consent conditions, regulations, or restrictions not included in the original application, it shall make a finding that the construction, change, alteration, relocation, deposit, encroachment, or change of grade as set forth in the application filed under the second paragraph of this section will restrict the capacity of such restricted channel or efficiency of the restricted floodway so as to constitute an unreasonable hazard to the safety of life and property in times of flood and so notify, in writing, the person or governmental agency which made the application for such consent.

Effective Date: 03-18-1969 .

### **6105.134 Appeal of refusal of consent.**

In the event the board of directors of a watershed district, under section [6105.133](#) of the Revised Code, refuses to give its consent to the construction, change, alteration, relocation, deposit, encroachment, or change of grade in a restricted channel or restricted floodway or makes a part of its consent conditions, regulations, or restrictions not included in the original application for such consent, the person, or governmental agency making the original application for such consent may appeal, on questions of law and fact, from the decision of the board to the court of common pleas of the county in which the structure or obstruction or other works referred to in such application is or is to be located.

Such appeal shall be filed within fifteen days from the receipt of the written notice under section [6105.133](#) of the Revised Code.

The court shall conduct a hearing on such appeal and shall give it preference over all other civil cases irrespective of their position on the calendar of the court. The hearing shall proceed as in the trial of civil actions.

The court may affirm, reverse, or modify the decision of the board appealed from and the judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. The court shall certify its judgment to the board and upon receipt of such judgment, the board shall take action in accordance with such judgment.

Effective Date: 12-14-1967 .

#### **6105.14 Annual report of proceedings.**

Annually the board of directors of a watershed district shall prepare and publish a report of its proceedings during the preceding calendar year. Such report shall contain a summary of the hearings held by the board, the recommendations of the board resulting from such hearings, and any suggestions or recommendations which the board may deem pertinent to the orderly development and beneficial use of the water resources of the district.

A copy of such report shall be filed with the board of county commissioners of each watershed county, the environmental protection agency, and with the legislative authority of each municipal corporation containing territory within the territorial boundaries of the district.

Effective Date: 10-23-1972 .

#### **6105.15 Expenditure budget.**

On or before the first day of June of each year, the board of directors of a watershed district shall submit to the board of county commissioners of each watershed county an expenditure budget for the watershed district for the next succeeding calendar year.

Effective Date: 12-14-1967 .

#### **6105.16 Budget meeting.**

Annually, within thirty days after the expenditure budget of a watershed district has been submitted to the boards of county commissioners under section [6105.15](#) of the Revised Code, the president of the board of county commissioners of that county or part of a county with a population within the territorial boundaries of the district, according to the last federal census, greater than that of any other county or part of a county within such district, shall call a meeting of the president or duly authorized representative of the board of county commissioners of each watershed county for the purpose of adopting an expenditure budget for the district for the next succeeding calendar year and of appointing a member to the board of directors of the district to fill the vacancy which has or will occur as a result of the expiration of a term of a member of the board.

Such meeting shall be called by sending a written notice thereof to such presidents or representatives, at least ten days before the date of the meeting, stating the time and place where the meeting will be held.

The president of the board of county commissioners required to call the meeting under this section shall act as a chairman of the meeting.

Effective Date: 12-14-1967 .

#### **6105.17 Adoption of annual expenditure budget.**

At the annual meeting called under section [6105.16](#) of the Revised Code the president or duly authorized representative of the board of county commissioners of each watershed county shall, by a majority vote of those present, adopt an expenditure budget for the district for the next succeeding calendar year. The amounts of the budget adopted under this section may be more or less than the amounts contained in the budget submitted under section [6105.15](#) of the Revised Code.

The total amount of such budget shall be apportioned among the several watershed counties in the ratio that the taxable value of the real and personal property within such county and within the territorial boundaries of the district bears to the taxable value of all real and personal property within the territorial boundaries of the district, but the ratio for such apportionment need not be calculated more often than once every five years.

The amount of such budget so apportioned to each county shall be included in the budget of each county submitted to its budget commission under section [5705.28](#) of the Revised Code and in the appropriation resolution of the county for the next succeeding calendar year.

The county auditor of each such county shall, after the passage of the appropriation measure for his county, draw his warrant on the treasurer of the county, payable out of moneys to the credit of the general fund of the county so appropriated, to the order of the watershed district for the amount so appropriated, and shall deliver such warrant to the secretary-treasurer of the district.

Effective Date: 12-14-1967 .

### **6105.18 Dissolution of watershed district.**

At any time after the third year following the creation of a watershed district a referendum may be held on the question of dissolution of the district. The question of dissolution of a watershed district may be presented to the electors within the territorial boundaries of the district, at any general election, by the filing of a petition, signed by at least two hundred qualified electors residing within the territorial boundaries of the district, with the board of elections of that county or part of a county with a population within the territorial boundaries of the district, according to the last federal decennial census, greater than that of any other county or part of a county within the territorial boundaries of the district.

Such petition shall be filed with such board not later than four p.m. of the ninetieth day before the day of the general election at which such question is to be presented to the electors.

Amended by 128th General Assembly File No.29, HB 48, §1, eff. 7/2/2010.

Effective Date: 03-23-1981 .

### **6105.19 Contents of petition to dissolve district.**

A petition filed under section [6105.18](#) of the Revised Code shall contain:

(A) The name of the watershed district it is proposed to dissolve;

(B) A statement that the signers of the petition request that the question of the dissolution of the district be presented to the electors within the territorial boundaries of the district at the next general election.

Effective Date: 09-24-1963 .

### **6105.20 Board of election duties.**

The board of elections with which a petition has been filed under section [6105.18](#) of the Revised Code, after determining that the petition is in proper form and is signed by at least two hundred qualified electors residing within the territorial boundaries of the watershed district, shall, on or before the ninetieth day before the day of the election at which the question of dissolving the district is to be submitted to the electors, certify to the board of elections of each watershed county the question of whether or not the district shall be dissolved.

The board of elections of each of such counties shall place such question on the questions and issues ballot, to be voted at such election by the electors of the county residing within the territorial boundaries of the district, by placing on such ballot the words "For continuing the existence of (name of the district to be here inserted)" and "Against continuing the existence of (name of the district to be here inserted)," with a square before each proposition and a direction to record the vote in the square before one or the other of said propositions as the voter favors or opposes the dissolution of the district.

The vote on the question of the dissolution of the district shall be counted and canvassed in the same manner as the vote for candidates for district office are counted and canvassed.

The board of elections with which the petition was originally filed shall certify the results of such election.

If a majority of the electors voting upon the proposition vote against continuing the existence of the district, the district shall be dissolved as of the thirty-first day of December immediately thereafter.

If a majority of the electors voting upon the proposition vote for continuing the existence of the district, no further referendum shall be held on the same proposition for a period of three years.

Amended by 128th General Assembly File No.29, HB 48, §1, eff. 7/2/2010.

Effective Date: 08-22-1995 .

### **6105.21 Distributing the assets following dissolution.**

Within ten days after a board of elections, under section [6105.20](#) of the Revised Code, has certified that a majority of the electors voting on the proposition have voted against continuing the existence of a watershed district, the secretary of the board of directors of the district shall call a special meeting of the board for the purpose of distributing the assets of the district. At such meeting the board shall determine the value of the assets of the district and provide for their distribution among the several watershed counties, in the ratio that the taxable value of the real and personal property within such county and within the territorial boundaries of the district bears to the taxable value of all real and personal property within the territorial boundaries of the district.

Effective Date: 12-14-1967 .

### **6105.22 Injunction.**

In the event of any violation of sections [6105.01](#) to [6105.21](#), inclusive, of the Revised Code, or the imminent threat thereof, the board of directors of a watershed district in which such violation has occurred or is threatened, or the owner of any property who would be especially damaged by such violation, in addition to any other remedies provided by law may institute and prosecute a suit for injunction to prevent or terminate such violation or correction of a condition constituting or threatening to constitute such a violation.

Effective Date: 12-14-1967 .

### **6105.99 Penalty.**

Whoever violates section [6105.13](#) or [6105.133](#) of the Revised Code shall be fined not less than one hundred nor more than one thousand dollars. Each day upon which such violation occurs or continues may constitute a separate offense.

Effective Date: 12-14-1967 .