

## CHAPTER 46A-2

## SOUTH DAKOTA CONSERVANCY DISTRICT

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46A-2-1. Creation of South Dakota Conservancy District--Boundaries--Powers. There is hereby created within the State of South Dakota, a conservancy district, to be known as the "South Dakota Conservancy District." The boundaries of the district shall coincide in all particulars with the boundaries of the State of South Dakota. Such district is a governmental agency, body politic and corporate with authority to exercise the powers specified in this chapter.

**Source:** SL 1959, ch 453, § 5; SDC Supp 1960, § 61.1405; SDCL, § 46-17-4; SL 1987, ch 29, § 56.

46A-2-2. Purposes for which district created. The limited supply of, and increasing demand for water available within this state and the United States for agricultural and other beneficial uses and the more effective development and utilization of the land and water resources of this state makes necessary the fullest use of waters available to South Dakota and its citizens for the protection and preservation of the benefits therefrom, including opportunity for greater economic security, protection of health, property, and enterprise, and promotion of the prosperity and general welfare of the people of South Dakota. This involves and requires the exercise of the sovereign powers of the state and a public purpose, the accomplishment of which, among other things, demands, and is necessary, that the South Dakota Conservancy District be created in the manner herein provided so that construction of water resource facilities for the conservation, storage, distribution, and utilization of water for multiple purposes may commence. It is a matter of public policy that the district shall insofar as prudently possible market the power generated from hydroelectric projects constructed by reason of this chapter in such a manner as to afford all of the citizens of the State of South Dakota equal and nondiscriminatory rights to share in such power. To the extent prudently possible all of the citizens of the State of South Dakota who are customers of all electric suppliers shall be treated equally with no preferential right being given which would discriminate in the cost of such power being used by such citizens of this state. It is also a matter of public policy that to the extent reasonably prudent that power generated under the authority of this chapter shall be used within the State of South Dakota before being sold outside the State of South Dakota. Encouragement, promotion, and responsibility for the development of such use shall be accomplished by providing for state water resources planning in order:

- (1) To provide for the future economic welfare and prosperity of the people of this state;
- (2) To provide for the irrigation of lands within the sections of a district periodically afflicted with drought, and to stabilize the production of crops thereon;
- (3) To replenish and restore the depleted waters of lakes, rivers, streams, and underground waters in the district, and to stabilize the flow of streams, levels of lakes, and levels and pressures of underground waters;
- (4) To reserve within the district for present or future beneficial uses, all waters and particularly waters impounded on the Missouri River, within the boundaries of the state, except to the extent that the construction of facilities for the diversion of water outside this state will make substantial water available for use within this state not otherwise available or will directly benefit the people of this state economically or otherwise;
- (5) To provide and enhance for beautification, flood protection, recreation, fish and wildlife benefits, municipal and industrial water supply, water quality enhancement, scenic rivers, navigation, erosion control, and in all other ways to conserve, regulate, and control the waters in this state;
- (6) To protect and improve the quality of the waters of the state as opportunity permits;
- (7) To provide for the generation and sale of hydroelectric power from projects which may include provisions for irrigation and municipal, rural, or industrial water supplies;
- (8) To prepare and submit to the Legislature and the Governor not later than the first legislative day of its session in 1975, a comprehensive statewide water plan, based on competent study of creative and innovative utilization of the water resources within the boundaries of South Dakota in order to develop a state water resources development system; a yearly progress report to the plan and system with possible recommendation to submit to the Legislature and the Governor by the first legislative day of each legislative session; and, to update the plan and system, not less than once each four years, and to submit the updated plan to the Legislature and the Governor; and
- (9) To plan and coordinate with any Indian tribe of this state, the joint development of water resources whenever such joint action is possible, appropriate and in the best interests of the state and of the respective tribe.

**Source:** SL 1959, ch 453, § 1; SDC Supp 1960, § 61.1401; SDCL, § 46-17-1; SL 1972, ch 240, § 1; SL 1972, ch 241, § 1; SL 1981 (2d SS), ch 1, § 16; SL 1982, ch 313, § 1; SL 1983, ch 321, § 9.

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46A-2-3. Intent to relate financing of water resources projects to degree of benefits received. It is the intent of this chapter and chapters 46A-3A to 46A-3E, inclusive, to relate, reasonably and equitably, the financing of water resources projects to the degree of benefits received from such water resources projects by:

- (1) Provisions whereby statewide financing will be forthcoming for those phases of water resources development which concern the general welfare of the people in the state and result in statewide benefits;
- (2) Provisions whereby specific areas will finance those phases of water resources development which provide general benefits to the people in such areas;
- (3) Provisions whereby water users or direct beneficiaries of water control and regulation will finance those phases of water resources development which provide water for use or which protect or enhance the value of property;
- (4) Provisions whereby assignment of administrative jurisdiction and responsibility for the various phases of water resources development are related to such variable degrees of benefits.

**Source:** SL 1959, ch 453, § 3; SDC Supp 1960, § 61.1403; SDCL, § 46-17-2; SL 1984 (SS), ch 1, § 65.

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46A-2-4. Definition of terms. Terms used in this chapter and chapters 46A-3A to 46A-3E, inclusive, mean:

- (1) "Benefits," the favorable effects, tangible or intangible, that accrue or are estimated to accrue to any person or the public by establishment of water resources projects;
- (2) "Board," the governing board of the South Dakota Conservancy District which is the Board of Water and Natural Resources;
- (3) "Department," the Department of Environment and Natural Resources;
- (4) "Equalized assessed valuation," the sum of:
  - (a) The value derived by dividing the full and true value as certified to the county of all property within that county, included in the water development district, by the median agricultural and nonagricultural ratios for all sales in that county as published in the current annual report of the property tax division of the South Dakota Department of Revenue as required pursuant to § 10-11-60; and
  - (b) The full and true value of all centrally assessed utility property within that county included in the water development district;
- (5) "Facilities plan" or "state water facilities plan," those parts of the statewide water plan established by the Board of Water and Natural Resources;
- (6) "Person," any natural person, firm, partnership, limited liability company, association, or corporation but not a public body or political subdivision;
- (7) "Public entity," a county, township, municipality, political or administrative subdivision of state government, subdistrict, irrigation district, water user district, watershed district, drainage district, soil conservation district, or other public body recognized by state law;
- (8) "Public hearings" or "hearings," formally scheduled and conducted meetings for purposes of determining courses of action concerning district or water development district business;
- (9) "South Dakota Conservancy District" or "district," the public corporate entity established by this chapter;
- (10) "Taxable property in the water development district," the sum of the taxable valuations of all property included in the water development district as variously established by the respective counties pursuant to § 10-11-25;
- (11) "Total water development district equalized assessed valuation," the sum of the equalized assessed valuations of all the counties or portions of counties within the water development district;
- (12) "Water development district" or "(Name) Water Development District," a subdivision of the district established as provided in chapters 46A-3A to 46A-3E, inclusive, for the purpose of planning and coordinating water resources development activity and providing financial and other assistance to water resources projects or development;

(13) "Water development district board of directors" or "water development district board," the governing officials who exercise the corporate powers of a water development district;

(14) "Water resources projects" or "water resources development," contracts for the marketing of water service or the facilities by which water is controlled, regulated, reclaimed, or made available for use, or the quality of which is protected and improved, including any wells, reservoirs, dams, water reclamation facilities, wastewater treatment facilities, intake structures, pumping stations, equipment, rights-of-way or easements, works or facilities, land and buildings or other real or personal property intended either to generate or sell hydroelectric power from projects which may include provisions for irrigation, municipal, rural, or industrial water supplies or to control, regulate, drain, reclaim, dispose of, pump, store, treat, purify, distribute, deliver, put into aquifers or water courses, or otherwise make available water for any beneficial use. The term includes the studies, investigations, plans, construction, operation, or maintenance associated with the facilities, and debt service reserve funds, funds to provide capitalized interest and any costs incurred in connection with the issuance of obligations to finance any of the foregoing.

**Source:** SL 1959, ch 453, § 4; SDC Supp 1960, § 61.1404; SDCL § 46-17-3; SL 1972, ch 240, § 2; SL 1977, ch 371, § 1; SL 1979, ch 301, § 1; SL 1980, ch 306, § 1; SL 1980, ch 310, § 1; SL 1982, ch 313, § 2; SL 1983, ch 322, §§ 1 to 3; SL 1984, ch 289; SL 1984 (SS), ch 1, § 61; SL 1994, ch 351, § 112; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2005, ch 10, § 39; SL 2011, ch 1 (Ex. Ord. 11-1), § 161, eff. Apr. 12, 2011.

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46A-2-5. Board of directors abolished--Performance of functions. The board of directors of the South Dakota Conservancy District is abolished, and all its functions shall be administered by the department and Board of Water and Natural Resources, as provided by §§ 1-40-9 and 1-40-10.

**Source:** SL 1973, ch 2, § 123; SDCL Supp, § 46-17-5.1.

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46A-2-6. Offices of district. The Department of Environment and Natural Resources may equip, operate, and maintain an office as the principal place of business for the district and to establish other offices as required.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (6); SDCL § 46-17-10; SL 2011, ch 165, § 313.

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46A-2-7. Quorum of board--Actions on notes or bonds. A majority of the members of the Board of Water and Natural Resources shall constitute a quorum for transaction of district business.

Actions of the district concerning notes or bonds shall be authorized by resolution approved by a majority vote of the members of the board.

**Source:** SL 1959, ch 453, § 6; SDC Supp 1960, § 61.1406; SDCL, § 46-17-11; SL 1979, ch 301, § 3.

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46A-2-8. Rules--Delegation of authority by board. The Board of Water and Natural Resources may promulgate rules pursuant to chapter 1-26 governing its procedures and internal affairs and may delegate authority to act on behalf of the district.

**Source:** SL 1959, ch 453, § 6; SDC Supp 1960, § 61.1406; SDCL, § 46-17-12; SL 1984 (SS), ch 1, § 65; SL 1986, ch 27, § 48; SL 1987, ch 328, § 2; SL 1993, ch 256, § 65.

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46A-2-9, 46A-2-10. Repealed by SL 2013, ch 166, §§ 117, 118.

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46A-2-11. Board may sue and be sued. The Board of Water and Natural Resources may sue and be sued in the name of the district.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (1); SDCL § 46-17-15; SL 2011, ch 165, § 314.

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46A-2-12. Legal adviser of board--Cooperation of state agencies at request of board. The attorney general shall act as the legal adviser of the Board of Water and Natural Resources. All other state agencies shall assist and cooperate with the conservancy district, at the request of the board.

**Source:** SL 1959, ch 453, § 7; SDC Supp 1960, § 61.1407; SDCL, § 46-17-8.

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46A-2-13. Coordination of water resources project activities. The Board of Water and Natural Resources shall coordinate all federal, state, and local water resources project activities in the state in order to assure that the optimum over-all benefits will accrue from the construction and operation of water conservation, control and beneficial use facilities and to ensure maximum consideration of local needs and desires.

**Source:** SL 1959, ch 453, § 9; SDC Supp 1960, § 61.1409 (1); SDCL, § 46-17-16.

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46A-2-14. Acquisition and disposition of property necessary for water resources projects--Use by local project sponsors. The Board of Water and Natural Resources may acquire, under the provisions of this chapter and chapters 46A-3A to 46A-3E, inclusive, by purchase or lease, all real and other property as may be necessary for the construction, maintenance, and operation of any water resources project; hold and use the property, lease, or otherwise dispose of any part of the property; or sell the property if not required for water resources project use, and no longer necessary to its use. The board may enter into rental or other agreements with local project sponsors to allow local project sponsors to use property controlled by the board or Department of Environment and Natural Resources according to terms and conditions specified by the board. In carrying out this section the board shall follow the procedures required in the case of counties under the laws of South Dakota.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (2); SDCL § 46-17-17; SL 1984 (SS), ch 1, § 65; SL 1986, ch 370, § 1; SL 2011, ch 165, § 315.

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46A-2-15. Powers of district with respect to project owned and operated by district or regulated public water utility. The district may, with respect to any project owned and operated by the district or a regulated public water utility:

- (1) Establish and fix the rate or rates to be charged by the project owner for the furnishing or sale of all water from the project;
- (2) Establish and fix the charge or charges for water meters or other means necessary for determining the consumption of water from the project; and
- (3) Require that water for such beneficial uses in this state as the district may determine be made available along the route of the project in this state, in such amounts as the district may determine, up to a maximum of twenty-five percent of the capacity of any privately owned project, to any residential user in this state, upon the payment by the residential user of all costs of tapping into and removing water from the project.

The district may promulgate rules pursuant to chapter 1-26 for the exercise of the powers enumerated in this section, including procedures for the establishment of rates and charges and for making available water from the project.

**Source:** SL 1981 (2d SS), ch 1, § 7; SDCL Supp, § 46-17A-2.1; SL 1993, ch 256, § 66; SL 1997, ch 208, § 3.

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46A-2-16. Leverage lease agreements by board--District as lender and lessee--Sublease of equipment. The Board of Water and Natural Resources may become a party to a leverage lease agreement whereby the district loans up to eighty percent of the cost of construction and equipment for a water development project sponsored by or built for a political subdivision of the State of South Dakota to a person or persons who agrees to own in fee simple such works and equipment and lease them back to the district or political subdivision. The district may be both lender and lessee on such leverage lease, and, in the event it is lessee, it may sublease such works and equipment.

**Source:** SL 1977, ch 369, § 1; SDCL Supp, § 46-17-17.1.

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46A-2-17. Eminent domain--Exercise of power by board. The Board of Water and Natural Resources may exercise the power of eminent domain as provided by law only when necessary for the purposes of acquiring and securing any right, title, interest, estate, or easement necessary to carry out the duties imposed by this chapter, which the district is unable to acquire by negotiation.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (3); SDCL, § 46-17-18; SL 1987, ch 29, § 57.

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46A-2-18. Acquisition of water rights by district--Rights to appropriate water for energy industry use. The district may acquire by appropriation, or by purchase, exchange, or gift, such water rights as are necessary for the development of its water resource projects, including projects for which it has secured authority to execute financing agreements pursuant to § 46A-1-49. Notwithstanding any other provision of law, the district may acquire, by obtaining a permit or permits from the water management board, rights to appropriate water for energy industry use for marketing to energy industry users for such consideration and under such terms and conditions as are fixed by contract or instrument of conveyance. The district may not acquire rights to appropriate more than fifty thousand acre-feet of water for energy industry use per year.

**Source:** SL 1981 (2d SS), ch 1, § 3; SDCL Supp, § 46-17-18.1.

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46A-2-19. Transfer of water rights or permits to appropriate water for energy industry use--Contract provisions. The district may sell, grant, convey, assign, lease, or otherwise transfer perfected water rights or permits to appropriate water for energy industry use to energy industry users for such consideration and under such terms and conditions as are fixed by contract or instrument of conveyance. The contracts represent the entire financial obligation for the use of water owed by an energy industry user to the State of South Dakota and no further fee, tax, or assessment may be levied against the user except for an ad valorem tax as assessed under chapter 10-37. Any such contract may provide that for failure to perform any condition of performance, for breach, for failure of consideration, or for failure to perform any other contractual obligation, the transfer is void. If the Board of Water and Natural Resources determines that such a failure to perform a condition of performance or breach has occurred, it may file with the division of water rights a notice to cancel the permit or license evidencing the transfer after complying with any notice of breach provision or other condition precedent to cancellation specified in the contract.

**Source:** SL 1981 (2d SS), ch 1, § 4; SDCL Supp, § 46-17-18.2; SL 2011, ch 165, § 316.

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46A-2-20. Resource development works, construction, operation and maintenance--Exercising powers in water development districts. The Board of Water and Natural Resources may construct, operate, and maintain water resources development works not within a water development district and may become a party to agreements or contracts with federal agencies, public entities, local groups, or persons covering construction, operation, and maintenance of water resources development works. This section may not be construed to deny the district the right to exercise any of its powers within a water development district:

(1) When it has entered into a financing agreement pursuant to § 46A-1-49, provided that any water development district in which the project to be financed pursuant to the financing agreement will be located or any water development district that, as determined by the Board of Water and Natural Resources, will be affected by the project has ratified by resolution the resolution of the board recommending construction or authorization of the project;

(2) When it has entered into a financing arrangement pursuant to § 46A-1-18 without the approval of any water development district; or

(3) When consented to or requested by the water development district.

**Source:** SL 1959, ch 453, § 9; SDC Supp 1960, § 61.1409 (2); SDCL, § 46-17-19; SL 1980, ch 310, § 13; SL 1981 (2d SS), ch 1, § 10; SL 1984 (SS), ch 1, § 64; SL 1986, ch 370, § 2.

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46A-2-21. Interim financing--Eminent domain power--Limitation. The district, may, notwithstanding § 46A-2-20, exercise the power of eminent domain as provided by law if necessary for the purposes of acquiring

and securing any right, title, interest, estate, or easement necessary for any project for which the district has entered into a financing arrangement under § 46A-1-18, which cannot be acquired by negotiation. However, this power may not be exercised in connection with any project that may provide or assist in providing water for use in a coal slurry pipeline.

**Source:** SL 1979, ch 301, § 6; SDCL Supp, § 46-17A-23.5; SL 2011, ch 165, § 317.

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46A-2-22. Contract for payment of services or performance of work--Board as party--Amount limited to annual appropriation. The Board of Water and Natural Resources may become a party to long or short-term contracts as principal or guarantor for payment for such services or for performance of construction, operation, or maintenance work as is deemed beneficial or advisable by the board. However, nothing contained in this chapter or chapters 46A-3A to 46A-3E, inclusive, permits the board to enter into any contracts or agreements that obligate the State of South Dakota beyond the extent of the board's then current annual appropriation.

**Source:** SL 1959, ch 453, § 9; SDC Supp 1960, § 61.1409 (2); SDCL § 46-17-20; SL 1984, ch 12, § 71; SL 1984 (SS), ch 1, § 65; SL 2011, ch 165, § 318.

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46A-2-23. Construction of water facilities--Prior approval of water resources project plans. The Board of Water and Natural Resources may require approval of water resources project plans prior to construction of conservation, control, or beneficial use of water facilities.

**Source:** SL 1959, ch 453, § 9; SDC Supp 1960, § 61.1409 (1); SDCL, § 46-17-21.

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46A-2-24. Cooperation with other agencies in development of water resources projects. The Board of Water and Natural Resources may cooperate with and assist any or all federal agencies, public entities, and persons engaged in studying, investigating, planning, or otherwise considering the possibilities in the development of water resources projects for conservation, control, and beneficial use of water, including domestic water supply. The board may perform independent studies and investigations, or otherwise consider the benefits of possible water resources projects.

**Source:** SL 1959, ch 453, § 9; SDC Supp 1960, § 61.1409 (1); SDCL, § 46-17-22.

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46A-2-25. Acceptance of assistance to aid and promote water resources projects. The Board of Water and Natural Resources may accept funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public sources for the purpose of aiding and promoting the construction, maintenance, and operation of any water resource project.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (4); SL 1964, ch 223, § 2; SDCL § 46-17-23; SL 2011, ch 165, § 319.

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46A-2-26. Cooperation and performance of obligations entered into with United States for water resources projects. The Board of Water and Natural Resources may cooperate with and may furnish assurances of cooperation and act as principal and guarantor or either to enter into a contract with the United States of America, with public entities of South Dakota, or with persons for the performance of obligations entered into with the United States for the construction, operation, or maintenance of water resources projects or for accomplishment of the purposes and intents of this chapter and chapters 46A-3A to 46A-3E, inclusive.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (5); SDCL § 46-17-24; SL 1984 (SS), ch 1, § 65; SL 2011, ch 165, § 320.

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46A-2-27. Repealed by SL 1987, ch 29, § 58

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46A-2-28. Federal contracts for multi-purpose projects--Mandatory contract terms. No conservancy district, water development district, irrigation district, or other political subdivision may enter into a contract with the federal government for construction, management, or maintenance of an irrigation or other multi-purpose water project, unless the contract contains provisions to effectuate the following requirements:

- (1) That the state and local contracting entity shall assist in identifying lands to be purchased or used for project features;
- (2) That state and local contracting entity representatives shall accompany federal representatives during land acquisition negotiations in order to protect state and local interests;
- (3) That land owners directly affected by water diversion and other project features be given preference for water use within the purposes for which the project was designed and authorized;
- (4) That the state and the local contracting entity shall be involved early in all federal project planning to assure that project features are designed in such a manner as to minimize the need for wildlife mitigation and land acquisition; and
- (5) That wildlife benefits of project features shall be considered in determining overall project impact on wildlife.

**Source:** SL 1980, ch 307, § 1; SDCL Supp, § 46-17-24.2; SL 1984 (SS), ch 1, § 64.

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46A-2-29. Federal contracts for multi-purpose projects--Approval of contract provisions. No contract affected by § 46A-2-28 is valid unless the provisions of that contract have been approved by the Board of Water and Natural Resources.

**Source:** SL 1980, ch 307, § 2; SDCL Supp, § 46-17-24.3.

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46A-2-30. Federal loans contracted by district. The district may contract loans and borrow money from the United States upon such conditions and terms as may be agreed to subject to legislative authorization therefor.

**Source:** SL 1972, ch 241, § 23; SDCL Supp, § 46-17A-22.

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46A-2-31. Contracts with United States for marketing federal water service--State interests not prejudiced--Purpose--Recommendation to Legislature. The district, upon recommendation by the Board of Water and Natural Resources and approval of the Governor, may enter into contracts with the United States for the marketing of water service from federal projects. No such contract entered into by the state may prejudice state interests and rights to water resources within the boundaries of the state pursuant to state and federal statutes. Such contracts shall be for the express purpose of compensating the United States for the storage facilities provided by federal water projects. Before the implementation the contracts shall be recommended to the Legislature for inclusion in the state water resources management system pursuant to chapter 46A-1.

**Source:** SL 1977, ch 371, § 2; SDCL Supp, § 46-17A-22.4; SL 1984, ch 12, § 72; SL 2011, ch 165, § 321.

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46A-2-32. Repealed by SL 1984 (SS), ch 1, § 62

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46A-2-33. Dissolution of subdistrict--Authority of board to exercise necessary powers until commitment satisfied--Restriction on power to levy tax. The Board of Water and Natural Resources may exercise the necessary power and authority of a subdistrict board of directors, if the subdistrict has been dissolved under provisions of chapter 46A-3, until all responsibilities, obligations, and contractual commitments of the dissolved subdistrict have been satisfied. The board may not levy taxes on any election district as defined in § 46A-3-8 for the continuation of any project not supported by a majority of the election district voters in a subdistrict election called by the board for that purpose unless the subdistrict's contracting authority specifically approves the project or contract and the tax levy allowable for the contract or project.

**Source:** SDC Supp 1960, § 61.1408 (9) as added by SL 1964, ch 223, § 3; SDCL § 46-17-26; SL 1980, ch 310, § 17; SL 2011, ch 165, § 322.

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46A-2-34. Generation and sale of hydroelectric power authorized. The Board of Water and Natural Resources may generate or sell hydroelectric power.

**Source:** SL 1959, ch 453, § 8; SDC Supp 1960, § 61.1408 (8); SDCL, § 46-17-27; SL 1982, ch 313, § 3.

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46A-2-35. Appropriations to accomplish duties of district--Request to state Legislature. For accomplishment of the duties of the district as herein described the Board of Water and Natural Resources shall present requests to the state Legislature for appropriations adequate to carry out the responsibilities of the district.

**Source:** SL 1959, ch 453, § 10; SDC Supp 1960, § 61.1410; SDCL, § 46-17-28.

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46A-2-36. Powers granted to district and water development districts--Construction. The powers herein granted to the South Dakota Conservancy District, as established hereby, and water development districts, as may be established, shall be construed as those reasonably necessary to accomplish the purpose and intent of this chapter.

**Source:** SDC Supp 1960, § 61.1402 as added by SL 1964, ch 223, § 1; SDCL, § 46-17-29; SL 1984 (SS), ch 1, § 64; SL 1987, ch 29, § 59.

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46A-2-37. Construction of conservancy district law--Supplementary to laws governing water management board--Laws relating to irrigation, conservancy, drainage, soil conservation, or watershed districts unaffected. The provisions of this chapter and chapters 46A-3A to 46A-3E, inclusive, do not abrogate or limit the rights, powers, duties, and functions of the State Water Management Board, but are supplementary to and in aid of such rights, powers, duties, and functions. Chapters 46A-3A to 46A-3E, inclusive, do not limit or affect the laws of this state relating to the organization and maintenance of irrigation districts, water user districts, drainage districts, soil conservation districts, or watershed districts. Chapters 46A-3A to 46A-3E, inclusive, do not infringe upon or establish any rights superior to any existing water rights, and do not preclude the establishment of any such or similar public entity wholly or in part within the boundaries of the district created by this chapter.

**Source:** SL 1959, ch 453, § 2; SDC Supp 1960, § 61.1402; SDCL § 46-17-30; SL 1984 (SS), ch 1, § 65; SL 2011, ch 165, § 323.

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46A-2-38. Areas outside development districts. For benefit of areas of the state not included within one or more water development districts, the Board of Water and Natural Resources, in performing its statewide water planning function pursuant to subdivision 46A-2-2(8), shall provide adequate opportunity for expression of the preferences of local people through public hearings. In establishing the statewide water plan and in allocation of funds available to the district, the board may grant no preference to an entity because of its location within a water development district.

**Source:** SL 1984 (SS), ch 1, § 63.

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