

CHAPTER 46A-3E

WATER DEVELOPMENT DISTRICTS--TAX LEVIES AND SPECIAL ASSESSMENTS

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46A-3E-1. Tax levies. A water development district board of directors may levy taxes, not to exceed thirty cents per thousand dollars of taxable valuation in the district, for accomplishment of the purposes of chapters 46A-3A to 46A-3E, inclusive, and chapters 46A-1 and 46A-2. If an area is included in more than one water development district, that area's tax levy payable to each of the water development districts shall be determined by multiplying the greater of the overlapping water development districts' levies by each water development district's taxing fraction. Each water development district's taxing fraction is determined by dividing that water development district's proposed tax levy for the overlapped area by the sum of all water development districts' levies for the overlapped area. Any water development district for which boundaries are revised under §§ 46A-3A-2 to 46A-3A-7.1, inclusive, is not considered a new taxing district. If any water development district levied a tax pursuant to chapter 10-13 in a manner used by a new taxing district for taxes payable in 2010, such water development district shall revert to the amount of revenue payable to the district for taxes payable in 2009 including any excess levy approved pursuant to § 10-13-36 before July 1, 2002. The water development district may adjust the maximum amount of revenue payable for property taxes based on the growth and index factor for each year thereafter. Any excess levy approved by the water development district pursuant to § 10-13-36 before July 1, 2002, is null and void.

Source: SL 1984 (SS), ch 1, § 45; SL 1989, ch 87, § 15J; SL 1998, ch 269, § 3; SL 2008, ch 232, § 6, eff. Jan. 1, 2009; SL 2010, ch 216, § 1.

46A-3E-2. Special assessments. A water development district board of directors may make special assessments against real property specially benefited by a project, provided that the persons seeking the assessment or an entity authorized to act on their behalf have contractually agreed to the special assessments as a means of providing local funding. There shall be filed with the water development district board of directors a petition in a form approved by the Board of Water and Natural Resources signed by sixty-six and two-thirds percent of the owners of real property to be assessed.

Source: SL 1984 (SS), ch 1, § 46.

46A-3E-3. Contractual agreement of landowner for special assessment. Only those landowners who contractually agree for special assessments to finance a water delivery project may be specially assessed. The provisions of § 46A-3E-4 notwithstanding, any person who wishes to join a water delivery project after a

petition has been filed with the water development district board of directors pursuant to § 46A-3E-4 may contractually agree to join the project. However, a person contractually joining a water delivery project late may be required to make special payments in addition to special assessments in order to bear the person's fair share of project costs.

Source: SL 1984 (SS), ch 1, § 47A; SL 2011, ch 165, § 329.

46A-3E-4. Hearing on special assessment--Notice--Resolution of intent. Upon receipt of a petition requesting a special assessment, a water development district board of directors shall hold a hearing on the question. Notice of the time and place of the hearing shall be published at least once each week for two consecutive weeks before the hearing in the official newspapers of the water development district. The last publication shall be at least ten days prior to the hearing. If, after hearing, the board of directors determines that the project is consistent with the best interests of the water development district, it may adopt a resolution of intent to specially assess.

Source: SL 1984 (SS), ch 1, § 48.

46A-3E-5. Notice of resolution of intent to specially assess. Within twenty days after adoption of a resolution of intent to specially assess, a water development district board of directors shall give written notice to owners of real property described in the resolution. Owners entitled to notice are those listed as the owners of the real property to be assessed in the records in the office of the register of deeds of the county where the real property is located. If real property is sold under a contract for deed which is of record in the office of the register of deeds, both the landowner and the purchaser of the land, as named in the contract for deed, shall be treated as owners.

Notice shall be by registered or certified mail, shall be effective upon the date mailed, and shall contain the following:

- (1) A description of the contract under which the assessment is to be made;
- (2) A legal description of the real property of the affected owner to be specially assessed;
- (3) A description of the nature of the benefit to be returned to the property; and
- (4) Notice of the right to protest by petition.

Source: SL 1984 (SS), ch 1, § 49; SL 1986, ch 375, § 1; SL 1987, ch 29, § 33; SL 1987, ch 333, § 1.

46A-3E-6. Effective date of assessment in absence of protest--Form of protest. Special assessments by water development districts are effective thirty days after adoption of the resolution of intent to specially assess, unless a written protest is filed with the office of the water development district within thirty days of adoption of the resolution, excluding the date of adoption. The written protest shall be in the form of a petition signed by not less than sixty percent of the owners of real property described in the resolution of intent to specially assess.

Source: SL 1984 (SS), ch 1, § 50; SL 1986, ch 375, § 2; SL 1987, ch 333, § 2.

46A-3E-7. Contract required for district participation in project--Approval. A water development district may assist, sponsor, or construct a water resources project. Each project shall conform to the provisions of § 46A-2-3, which provides that specific areas shall finance those phases of water resources development that provide general benefits to people in such areas, that direct beneficiaries shall finance those phases of water resources development that provide water for their use or that protect or enhance the value of their property, and that administrative jurisdiction and responsibility for the various phases of water resources development are related to such variable degrees of benefits.

Source: SL 1984 (SS), ch 1, § 51; SL 1998, ch 269, § 4; SL 2003, ch 231, § 1.

46A-3E-8. Levies and assessments to cover obligations--Restrictions on obligations. A water development district board of directors may levy taxes and special assessments, as provided and limited in chapters 46A-3A to 46A-3E, inclusive, to cover obligations contained in contracts with the United States, or any agency thereof, with agencies of the State of South Dakota, or with any other entity, public or private, to accomplish the purposes of chapters 46A-3A to 46A-3E, inclusive. Except for special assessments, however, a water development district may not obligate any funds or revenues that are not to be collected or on hand during the fiscal year in which the obligation is incurred.

Source: SL 1984 (SS), ch 1, § 52.

46A-3E-9. Collection of levies and assessments--Deposit of proceeds--Disbursement--Assurance of payment of contract obligations. Pursuant to the provisions of chapters 46A-3A to 46A-3E, inclusive, a water development district board of directors may levy a tax or special assessments or both against taxable property within the boundaries of the water development district, to be collected by the appropriate tax listing entities in accordance with the procedures outlined in chapters 46A-3A to 46A-3E, inclusive. Collections from the tax shall be deposited monthly with the water development district treasurer by the appropriate tax collecting officials. The water development district treasurer shall deposit the funds received from the appropriate tax collecting officials in depositories designated by the water development district board of directors. Disbursements from the designated depository account shall be made upon orders duly drawn by the water development district treasurer pursuant to procedures adopted by the board of directors and are to be used in performing the duties prescribed for the water development district board of directors by the provisions of chapters 46A-3A to 46A-3E, inclusive. However, any agreement or contract entered into by the water development district board of directors on behalf of any irrigation district, drainage district, watershed district, municipality, county, township, or other entity of state government shall be secured by the taxing or assessment power of such public entity and such agreement or contract, entered into by the district board of directors with or on behalf of a soil conservation district, water user district, or other nontaxing public entity shall provide for other assurance of payment satisfactory to the water development district board of directors.

Source: SL 1984 (SS), ch 1, § 53; SL 1993, ch 256, § 69.

46A-3E-10. Budgets--Annual report--Hearing--Notice--Adoption. The board of directors of a water development district shall at the time of the organization of the board and annually thereafter on a date established by the district, but before the first of October, adopt a budget and prepare an operations and budget report. The report shall present estimates and itemizations of all the expenses and obligations of the water development district, including expenses of directors, expenses of operating the office, debt service and retirement, and obligations and liabilities to the United States. Before approval of the budget by the district board of directors, a public hearing shall be held. Notice of the hearing shall be published once each week for two successive weeks in the water development district's official newspapers. The notice shall state the time and place of the hearing, its purpose, and that at the hearing all persons interested may appear, either in person or by representative, and be heard and given an opportunity for a full and complete discussion of all items in the budget. With the first notice, the budget shall be published in a form approved by the auditor general. At the conclusion of the hearing, the water development district board may eliminate or amend any portion of the budget before adoption.

Source: SL 1984 (SS), ch 1, § 54; SL 1986, ch 372, § 2; SL 1997, ch 255, § 7; SL 2011, ch 165, § 330; SL 2012, ch 217, § 4.

46A-3E-11. Apportionment of tax levy--Form of levy. Upon completion and adoption of a budget, a water development district board of directors shall make a tax levy or special assessment or both in dollars sufficient to fund the budget. Any tax levy made against the property in any given county in a water development district shall be in an amount equal to the total water development district tax levy in dollars multiplied by the county's proportional share. The county's proportional share shall be determined by dividing the equalized assessed valuation of the area within the water development district for that county by the total water development district

equalized assessed valuation. The provisions of § 10-12-34.1 may not prohibit apportionment of the tax among the counties as provided in this section. No water development district tax levy may be in excess of the limitation specified in chapters 46A-3A to 46A-3E, inclusive, except as provided in § 46A-3E-1. Any tax levy shall be in the form of a resolution adopted by a majority vote of the members of the board of directors of the water development district.

Source: SL 1984 (SS), ch 1, § 55; SL 1986, ch 372, § 3; SL 1989, ch 386, § 6; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 2012, ch 217, § 5.

46A-3E-12. Certification of levy to tax officials. Immediately after completion of a budget and adoption of special assessments and a tax levy by a water development district board of directors, but not later than the first of October, the secretary of the water development district shall send one certified copy of the levy as adopted and one certified copy of such budget to appropriate tax collecting officials of the affected counties and to the state secretary of revenue.

Source: SL 1984 (SS), ch 1, § 56; SL 1992, ch 318.

46A-3E-13. Extension of levy. Appropriate officials shall extend the levy or special assessments upon the tax list of the county, municipality, or other appropriate tax paying entity for the tax year against each description of taxable property or, in the case of special assessments, against each description of taxable property to be specially assessed within the water development district in the same manner and with the same effect as other taxes and assessments are extended, including the authority, requirements, and procedures contained in chapter 9-43.

Source: SL 1984 (SS), ch 1, § 57; SL 1987, ch 333, § 3.

46A-3E-14. Collection of taxes and assessments--Payment--Deposit. Appropriate tax collecting officials shall collect all water development district taxes and assessments, together with interest and penalty thereon, if any, in the same manner as the general taxes and assessments are collected and shall pay over monthly to the water development district treasurer all taxes so collected during the preceding month, with interest and penalties. The water development district treasurer shall immediately enter these receipts to the credit of the depository accounts designated by the water development district board of directors pursuant to § 46A-3E-10.

Source: SL 1984 (SS), ch 1, § 58; SL 2012, ch 217, § 6.

46A-3E-15. Deposit and disbursement of collections. All moneys collected pursuant to the tax levies, special assessments and other funds authorized by this chapter accruing to the district shall be deposited either in the accounts of the state treasurer to the credit of the "(name) district fund" to be disbursed only as herein provided, or by the district treasurer in any depository designated and approved by the board of directors of the district at a regular meeting and from which all valid claims against the district shall be paid by order duly drawn by the district treasurer pursuant to procedures adopted by the board of directors.

Source: SL 1985, ch 356, § 1; SL 1993, ch 256, § 70.
