

CHAPTER 46A-8

WATER USERS' ASSOCIATIONS

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46A-8-1. Association organized under state law in conformity with federal law--Amendment of articles of incorporation, purposes. Any water users' association organized under the laws of this state and in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, may in the manner provided in this chapter so amend its articles of incorporation as to modify or enlarge its business or the purposes for which it was created, change the number of its directors or trustees; change its name or location within the state, increase or diminish its capital stock, or make any provision which might have been originally provided in its certificate or articles of incorporation.

Source: SDC 1939, § 61.0204; SDCL, § 46-11-1.

46A-8-2. Proposed amendment of articles of incorporation of association, time and manner of making, submission to shareholders, publication. Such amendment or amendments may be made at any annual meeting of the shareholders, or at any special meeting called for that purpose, by a majority of the votes cast upon such proposition at such election. No proposed amendment may be submitted to the shareholders until it has first received the approval of two-thirds of the board of directors at a regular or duly called session thereof. No proposed amendment may be submitted until it has been published in full at least once each week for four consecutive weeks in at least two newspapers of general circulation within the irrigable area of the association. The last publication may not be more than seven days before any such election. However, if all the shareholders are notified directly by mail at their last known addresses of the amendment, the amendment does not need to be published pursuant to this section.

Source: SDC 1939, § 61.0205; SDCL, § 46-11-2; SL 1996, ch 266, § 2.

46A-8-3. Bylaws of association--Repeal and amendment, submission of proposition to shareholders, publication. Any bylaw of such water users' association may be repealed or amended, or new bylaws may be adopted, at the annual meeting or at any other meeting of the shareholders called for that purpose by the directors, by a majority of the votes cast upon such propositions respectively at such election. The bylaw or amendment may not be submitted until it has first received the approval of two-thirds of the board of directors at a regular or duly called session thereof. The bylaw or amendment may not be submitted until it has first been published in full for at least two weeks next preceding such submission in at least two newspapers of general circulation within the irrigable area of such association. However, if all the shareholders are notified directly by mail at their last known addresses of the bylaw or amendment, the bylaw or amendment does not need to be published pursuant to this section.

Source: SDC 1939, § 61.0206; SDCL, § 46-11-3; SL 1996, ch 266, § 3.

46A-8-4. Acceptance of association books for public record by county commissioners--Recording of stock subscriptions--Charges. The board of county commissioners of any county in which there has been a water users' association organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, as amended to January 1, 2011, and which, under its articles of incorporation, is authorized to furnish water only to its stockholders, may accept the water users' association books for public record, containing printed copies of their articles of incorporation and forms of subscription to stock and to use the books for recording the stock subscriptions of the association. The charges for the recording of the stock subscriptions shall be made on the basis of the number of words actually written therein.

Source: SDC 1939, § 12.2903; SDCL § 46-11-4; SL 2011, ch 165, § 462.

46A-8-5. Election of officers and directors of association. At all elections of any such association the person receiving the highest number of votes for any office shall be deemed elected. All elections of directors shall be by districts and must be by ballot, and a vote of the shareholders representing a majority of the shares of stock cast at such election and which shares are appurtenant to lands within the district in which such candidate resides is necessary to a choice.

Source: SDC 1939, § 61.0203; SDCL, § 46-11-5.

46A-8-6. Assessments against shareholders--Purpose--Bylaws--Nonpayment. Any water users' association organized under the laws of this state and in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, as amended to January 1, 2011, and which, under its articles of incorporation, may furnish water only to its shareholders, may, for the purpose of raising revenue necessary for the accomplishment of the purposes of the association, levy assessments from time to time, as required, against its shareholders. The shareholders may make and enforce the necessary bylaws for the making, levying, collecting, and enforcing of the assessments. The nonpayment of any of the assessments is not a bar to the levying and collecting of other assessments against the same shareholders.

Source: SDC 1939, § 61.0201; SDCL § 46-11-6; SL 2011, ch 165, § 463.

46A-8-7. Lien of association for unpaid assessments--Priority--Duration--Foreclosure and sale of land. Such associations have the first and prior lien for all unpaid assessments on the lands of the shareholder against which the assessments are levied, and for all deferred payments on the water right appurtenant to the lands. The lien is in all respects prior to any other liens created or attempted to be created by the owner and possessor of the lands. The lien shall remain in effect until the last deferred payment for the water right and any unpaid assessments levied by the association against the land are fully paid and satisfied, according to the terms of the contract under which the water right was acquired, the provisions of this chapter, and the bylaws of the association relating to assessments. The lien shall be enforced by the association by the foreclosure and sale of the lands, or so much thereof as may be necessary, in the manner provided by law for the foreclosure of mortgages on real property.

Source: SDC 1939, § 61.0202; SDCL § 46-11-7; SL 2011, ch 165, § 464.

46A-8-8. Authority of association to transfer assets to municipality. Any water user's association organized pursuant to this chapter may, by a majority vote of its shareholders, sell, lease, or otherwise dispose of part or all of its assets to a municipality.

Source: SL 1982, ch 312, § 1; SDCL Supp, § 46-11-8.
