

CHAPTER 46A-18

WATER PROJECT DISTRICTS

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46A-18-1. Legislative findings and policy. Conservation, management, and development of the state's water resources are vital to the public interest, welfare, convenience, and necessity and require, in some circumstances, the creation of water project districts for the purposes of sponsoring and implementing water projects for the conservation, storage, distribution, and utilization of water and for the prudent management of water resources.

Source: SL 1984, ch 293, § 1; SL 1990, ch 366, § 1.

46A-18-2. Petition to submit to an election the establishment of water project district. Persons desiring to establish an area as a water project district may petition the Board of Water and Natural Resources to submit to an election the question of whether such area shall become a water project district.

Source: SL 1984, ch 293, § 2.

46A-18-2.1. Voting restricted to qualified voters. Except as provided in § 46A-18-2.2, and except as otherwise provided in this chapter, no person may vote in any election held pursuant to this chapter unless the person is a qualified voter of the water project district. A qualified voter of the district is a person who is a registered voter and a resident of the district. If the election is conducted based on director divisions, no person may vote in the election unless the person is a qualified voter of the person's respective director division. A qualified voter of a director division is a person who is a registered voter and a resident of the director division.

Source: SL 2007, ch 257, § 1; SL 2011, ch 35, § 3.

46A-18-2.2. Conditions for specifying qualified voter of district or director division is owner of real property located within district or director division. If fewer than one hundred fifty persons reside within the boundaries of an existing water project district on July 1, 2011, the board of directors of the district may, by a resolution adopted not later than July 1, 2014, specify that a qualified voter of the district or director division is an owner of real property located within the district or director division, rather than a registered voter and resident of the district or director division.

For purposes of this section, the term, owner of real property, includes any person listed as the owner of real property in the records in the office of the register of deeds of the county in which the property is located. If real property is sold under a contract for deed that is of record in the office of the register of deeds, the purchaser of the real property, as named in the contract for deed, is treated as the owner. A landowner or joint landowners who own a tract of land within the district are entitled to one vote collectively. The vote of any person who is a minor or a protected person as defined by § 29A-5-102, may be cast by the parent, conservator, or legal representative of the minor or protected person.

Source: SL 2011, ch 35, § 4.

46A-18-3. Repealed by SL 1990, ch 366, § 2

46A-18-4. Petition--Contents. The petition established pursuant to § 46A-18-2 shall contain:

- (1) The name of the proposed district;
- (2) The object and purpose of the water project and works proposed to be constructed or acquired, together with a general description of the nature, location, and method of operation of the proposed works or program of activities;
- (3) A legal description of the lands constituting the proposed district and the name of any municipality included partly or wholly within the boundaries of the proposed district;
- (4) The location of the principal place of business of the proposed district; and
- (5) The number of members of the board of directors of the proposed district, which number may not be fewer than three nor more than seven, and a statement as to whether the directors are to be elected at large or are to be elected by director divisions. Each director shall be a qualified voter of the district and, if director divisions are provided for, shall be a qualified voter of the respective division the director is to represent.

Source: SL 1984, ch 293, § 3; SL 1992, ch 60, § 2; SL 1998, ch 36, § 72; SL 2000, ch 32, § 8.

46A-18-5. Repealed by SL 1998, ch 36, § 73

46A-18-6. Lands includable in district. The lands proposed to be included within a district need not consist of contiguous parcels. A district may consist of lands wholly within or wholly outside the limits of municipalities, or of lands partly within and partly outside such limits and a district may include all or part of the area within one or more such municipalities.

Source: SL 1984, ch 293, § 5; SL 1992, ch 60, § 2.

46A-18-7. Organization of district within or partly within boundaries of another district. Nothing in this chapter prevents the organization of a district within, or partly within, the territorial boundaries of another district organized hereunder or of another district organized under the provisions of Title 46A, so long as the Board of Water and Natural Resources certifies that the works, the operations of the works, the exercise of powers, and the assumptions of duties and responsibilities on the part of such district will not nullify or unreasonably conflict with those on the part of the other district.

Source: SL 1984, ch 293, § 6.

46A-18-8. Directors to be elected at large or from divisions--Establishment of division boundaries. Directors of the proposed district may be elected either at large or from director divisions, without regard to whether municipality areas are included within the district. If the petition states that the directors shall be elected from director divisions, the petition shall describe the boundaries of the divisions, which boundaries may be drawn either with or without regard to the corporate limits of any municipality included partly or wholly within the district boundaries. The director division boundaries shall be drawn so as to provide equitable representation for the qualified voters of the district.

Source: SL 1984, ch 293, § 7; SL 1992, ch 60, § 2.

46A-18-9. Election of directors--Procedure--Terms. In the petition, whether the directors are to be elected at large or by division, the directors named shall be divided into three groups, to be designated Group 1, Group 2, and Group 3, respectively. The members of Group 1 shall hold office until their successors, elected at the first regular district election thereafter, shall be qualified. The members of Group 2 shall hold office until their successors, elected at the second regular district election thereafter, shall be qualified. The members of Group 3 shall hold office until their successors, elected at the third regular district election thereafter, shall be qualified. Thereafter, all directors elected shall serve for a term of three years and until their successors are elected and qualified. After the name of each director shall be stated which of the three groups he belongs to.

Source: SL 1984, ch 293, § 8.

46A-18-10. Signatures required on petition--Number. The formation petition shall be signed by the number of signers required by § 6-16-2.

Source: SL 1984, ch 293, § 9; SL 1990, ch 366, § 4; SL 1998, ch 36, § 74.

46A-18-11. Repealed by SL 1998, ch 36, § 75

46A-18-12. Petition--Maps and documents to accompany filing. A petition, if filed with the Board of Water and Natural Resources, shall be accompanied by maps showing the location of lands within the proposed district land and by such other maps, plans, and estimates as may be necessary to describe fully the operation and effects of the proposed project.

Source: SL 1984, ch 293, § 11.

46A-18-13. Petition examined by board--Investigation--Payment of estimated costs--Representation of petition. The Board of Water and Natural Resources shall examine the petition, and if it determines that the petitioners have complied with the requirements of this chapter, the board may make an immediate investigation of the proposed district and of its proposed works, systems, or plans and of the engineering and economic feasibility of the project. The board may make an estimate of the cost of the investigation and may require the petitioners to defray part or all of the estimated cost before proceeding with the investigation. If the petition is dismissed by the board, the petitioners may present a new petition covering the same matter or the same petition with additional signatures if additional signatures are necessary.

Source: SL 1984, ch 293, § 12; SL 1995, ch 253, § 14.

46A-18-14. Findings by board--Dismissal or approval of petition--Election date after approval. The Board of Water and Natural Resources, within ninety days from the receipt of a petition, or within ninety days from the time funds become available to defray the cost of an investigation, shall determine whether the proposed project is feasible and conforms to public convenience and welfare. If the project is deemed not feasible or not conforming to public convenience and welfare, the board shall dismiss the petition. If the board determines that

the project is feasible and conforms to public convenience and welfare, the board shall by resolution approve the petition and call an election of the qualified voters of the proposed water project district on the question of whether the proposed district should be established. The election shall be held as provided in §§ 6-16-4 to 6-16-6, inclusive.

Source: SL 1984, ch 293, § 13; SL 1998, ch 36, § 76; SL 2007, ch 257, § 2.

46A-18-15. Notice of petition and election--Publication--Contents. The Board of Water and Natural Resources shall perform the duties of the county auditor as provided in §§ 6-16-4 to 6-16-6, inclusive.

Source: SL 1984, ch 293, § 14; SL 1998, ch 36, § 77.

46A-18-16 to 46A-18-19. Repealed by SL 1998, ch 36, §§ 78 to 81

46A-18-20. Establishment of district--Vote required. If at least sixty percent of the votes cast in an election are in favor of formation of the water project district, the Board of Water and Natural Resources shall by resolution create and establish the water project district and give it a corporate name. Upon filing of a true copy of the resolution with the secretary of state, the district shall become a political subdivision of the state with the authority, power, and duties prescribed by this chapter.

Source: SL 1984, ch 293, § 19.

46A-18-20.1. Payment of election costs. If at least sixty percent of the votes cast in the initial election are in favor of the formation of the water project district, the costs of the election shall be paid by the new water project district. If less than sixty percent of the votes cast in the initial election are in favor of the formation of the water project district, the counties having land in the proposed district shall pay the costs of the election in proportion to each county's share of the equalized assessed valuation of the land within the proposed district.

Source: SL 1985, ch 366.

46A-18-21. Initial district directors. The initial district directors shall assume the duties of office and serve until successors are duly elected and qualified.

Source: SL 1984, ch 293, § 20; SL 2000, ch 32, § 9.

46A-18-22. Organization of directors--Chairman--Secretary-treasurer. The directors shall organize by electing one of their members chairman and one vice-chairman and by appointing a secretary-treasurer, who is not a member of the board and whose compensation and bond shall be set by the directors. The directors shall provide the necessary books, records, furniture, and equipment for the conduct and transaction of official business.

Source: SL 1984, ch 293, § 21.

46A-18-23. Annual district meeting--Election of directors. Before May first of each year, on a date established by the directors, an annual meeting of the district shall be held during which the qualified voters of the district shall elect, by ballot, under the direction of the secretary of the district, directors to replace those whose terms have expired. Newly elected directors shall assume office at the time of their election.

Source: SL 1984, ch 293, § 22; SL 2002, ch 144, § 7; SL 2007, ch 257, § 3.

46A-18-24. Notice of annual meeting and election. The water project district directors shall publish a notice once each week for three consecutive weeks immediately prior to the annual election and meeting stating the time, place, and purpose of the election and meeting, the names of the director candidates and the director division that each candidate is to represent in a legal newspaper of general circulation in each county that has land situated within the district. The notice shall also include information on any project reserve fund established by the district, as provided in § 46A-18-57.1.

Source: SL 1984, ch 293, § 23; SL 1990, ch 366, § 6.

46A-18-25. Nominating petitions for directors. Nominations of director candidates to be elected at the annual election shall be by nominating petition signed by at least twenty-five qualified voters or ten percent of the qualified voters, whichever is less, in the district, if the directors are elected at large, or signed by at least ten qualified voters or ten percent of the qualified voters, whichever is less, in the director division if the directors are elected by division. The petitions shall be in a form prescribed by the State Board of Elections and shall be filed with the secretary of the district at least thirty days prior to the election.

Source: SL 1984, ch 293, § 24; SL 1990, ch 366, § 7.

46A-18-26. Director vacancies--Filling. Any vacancy in an unexpired term shall be filled by appointment within thirty days of the vacancy by the remaining directors of the district. Any vacancy in an expired term for which no candidate's nominating petition has been filed pursuant to § 46A-18-25 shall be filled by appointment within thirty days of the election by the remaining directors. An appointed director shall hold office for the remainder of the term for which he has been appointed.

Source: SL 1984, ch 293, § 25; SL 1990, ch 366, § 8.

46A-18-27. Boundary adjustments. After the creation of a water project district, minor adjustments to the boundaries of the district may be made by the directors, without referendum. Such adjustments may not delete lands from the district that have been subject to a special assessment during the budget year or the current year and such adjustments may not include additional land in the district without the written approval of the owner of the land.

Source: SL 1984, ch 293, § 26.

46A-18-28. Annexation or withdrawal of areas. An additional area may be annexed or an area withdrawn from a water project district by:

- (1) Circulation of an initiating petition therefor by the qualified voters in the new area and in the existing district, similar to an initiating petition specified in § 46A-18-2; or
- (2) Circulation of an initiating petition by the qualified voters in the affected area and passage of a resolution therefor by the directors of the water project district.

Upon receipt of an initiating petition and passage of a resolution by the directors, the Board of Water and Natural Resources shall annex or withdraw the area in the same manner as prescribed for creation of a new water project district.

Source: SL 1984, ch 293, § 27.

46A-18-29. Combining districts. Two or more water project districts may be combined into a single district by:

- (1) Circulation of an initiating petition therefor, similar to the initiating petition specified in this chapter; or
- (2) Passage of resolutions by the directors stating the desire to combine the water project districts and containing the same information as prescribed for an initiating petition.

Upon receipt of an initiating petition or passage of a resolution by the directors, the Board of Water and Natural Resources shall combine water project districts in the same manner as prescribed for creation of a new water project district.

Source: SL 1984, ch 293, § 28.

46A-18-30. Combining districts--Certification of creation. After proceedings are completed to combine water project districts, the Board of Water and Natural Resources shall certify to the secretary of state of the creation of the combined water project district.

Source: SL 1984, ch 293, § 29; SL 1990, ch 366, § 9; SL 1991, ch 17 (Ex. Ord. 91-4), § 17.

46A-18-31. Corporate powers vested in directors. The corporate powers of the water project district shall be vested in and exercised by the board of directors of the district.

Source: SL 1984, ch 293, § 30.

46A-18-32. Powers of district. A water project district shall have perpetual existence, unless dissolved, with the following powers:

- (1) To sue and be sued;
- (2) To incur debts, liabilities, and obligations;
- (3) To exercise the power of eminent domain only as necessary to carry out its purposes and duties as provided in this chapter;
- (4) To levy taxes not to exceed one dollar per thousand dollars of taxable valuation on each dollar of taxable property in the district;
- (5) To levy special assessments, as limited by this chapter and in proportion to the benefits to be received, on taxable property that benefits by a water project or other program;
- (6) To borrow money and to issue certificates, warrants, general obligation bonds, special assessment bonds, and revenue bonds pursuant to this chapter. The district may continue to levy taxes and assessments within an area that has been withdrawn from the district as is necessary to pay the area's share of the district's obligations existing at the time of the withdrawal. No lands may be annexed to the district unless the owners or lessees of the lands pay or obligate the lands to pay the same rate for benefits provided by the district as all other lands within the district have originally paid or have been obligated to pay to cover costs of construction and project studies;
- (7) To enter into contracts to furnish water and other services; and
- (8) To do and perform all acts herein authorized and all other acts necessary and proper for carrying out and exercising the powers vested in the district.

Source: SL 1984, ch 293, § 31.

46A-18-33. Oath of directors. Within thirty days of assuming office, the directors shall meet at the designated principal place of business of the district and shall take the oath as defined in the Constitution of South Dakota.

Source: SL 1984, ch 293, § 32; SL 1995, ch 253, § 15.

46A-18-34. Employment of personnel--Bonds. The directors may contract for the services of or employ a manager, an engineer, professional assistants, and such other employees as are necessary and provide for their qualification, duties, and compensation, which, with all other expenses, shall be included as a part of cost of any project. The directors may require any officer or employee of the district to hold a bond for faithful performance of his duties, in a prescribed amount, the cost thereof to be paid from funds of the district.

Source: SL 1984, ch 293, § 33.

46A-18-35. Indemnification of officers, employees, and agents. A water project district may indemnify any person made a party or threatened to be made a party to any action, whether civil, criminal, administrative, or investigative in his capacity as director, officer, employee, or agent of the district or by serving at the request of the district in another enterprise. The indemnity may include reasonable expenses paid in settlement and incurred by him in connection with the action if he has acted in good faith, believed his actions to be in the best interests of the water project district or had no reasonable cause to believe his conduct unlawful. However, this section does not apply to any action by the water project district.

Source: SL 1984, ch 293, § 34.

46A-18-36. Compensation and expenses of directors. The district directors may receive no compensation but shall be entitled to per diem and reimbursement for expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The amount of reimbursement shall be at current state government rates.

Source: SL 1984, ch 293, § 35.

46A-18-37. Duties of directors. The district board of directors shall:

- (1) Adopt a seal;
- (2) Keep a record of all proceedings, minutes, certificates, contracts, bonds, and employees' records and other business transacted by the directors;
- (3) Adopt bylaws, procedures, and requirements consistent with this chapter;
- (4) Meet annually and at such other times as may be necessary. A meeting may be called at any time by the chairman or at the request of any director through the chairman. If so requested, the secretary of the district shall mail a notice of such meeting to each member at least ten days prior to the meeting.

Source: SL 1984, ch 293, § 36; SL 1993, ch 256, § 90.

46A-18-38. Powers of directors. The district board of directors may:

- (1) Make surveys or utilize other surveys and data to plan and develop water projects;
- (2) Cooperate or contract with any person, state, or subdivision thereof, federal agency or private or public corporation as necessary;
- (3) Construct, clean, repair, alter, abandon, consolidate, reclaim, or change any watercourse, natural or artificial, within the district in cooperation with other state or federal public bodies having jurisdiction;
- (4) Acquire, lease, operate, construct, and maintain dams, dikes, reservoirs, or other works as necessary;
- (5) Acquire by gift, lease, purchase, or eminent domain any real and personal property as necessary;
- (6) Sell, lease, or otherwise dispose of unneeded district property;
- (7) Contract for purchase of insurance;
- (8) Establish and maintain devices for acquiring and recording hydrological data;
- (9) Enter into contracts for construction authorized by this chapter; and
- (10) Acquire property and construct works outside the boundaries of the district.

Source: SL 1984, ch 293, § 37.

46A-18-39. District control over water rights. No water project district may have jurisdictional authority or control over water rights.

Source: SL 1984, ch 293, § 38.

46A-18-40. Plan for improvements--Contents. The district directors, within a reasonable length of time after qualifying, shall adopt an overall plan for improvements within the district. This plan shall be designated the general improvement plan for the water project district. The general improvement plan shall consist of a map showing the area to be benefited, the location of the proposed works of improvement and the location of buildings, roads, streams, and other topographic features necessary to show the relation of the proposed works of improvement to the area of the district and a narrative stating the estimated benefits and the proposed method of financing and accomplishing the project. The district directors may amend a previously adopted general improvement plan.

Source: SL 1984, ch 293, § 39; SL 1990, ch 366, § 10; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1995, ch 253, § 16.

46A-18-41. Priority of projects--Reports by engineer on each project--Contents. Upon adoption of a general improvement plan or amendment, the district directors shall set the order in which specific projects in the plan shall be undertaken and shall obtain accurate surveys of the projects by a competent engineer. The engineer shall make written reports showing the amount, character, and kind of work to be done and the location and estimated cost of the work.

Source: SL 1984, ch 293, § 40; SL 1990, ch 366, § 11; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1995, ch 253, § 17.

46A-18-42. Examination, hearing, and resolution on project--Financing. After approval by the board, the directors shall examine the plans, hold hearings on the proposals, and by resolution state that the proposed work, or any part thereof, should be accomplished. The resolution shall state whether the cost shall be paid by a general tax levy against all taxable real property located within the district, by a special assessment against real property within the district that will specially benefit by the project or by both a general tax levy and a special assessment with the portion to be paid by each.

Source: SL 1984, ch 293, § 41; SL 1990, ch 366, § 12.

46A-18-43. Financing determined in resolution. The directors shall determine in the resolution whether to issue bonds of the district or other authorized financing to provide for payment of the cost of the project by installments.

Source: SL 1984, ch 293, § 42.

46A-18-44. Publication of resolution--Notice of hearing--Apportionment of benefits. The resolution, upon being adopted, shall be published once a week for three successive weeks in a legal newspaper of general circulation in each county in which land of the district is located. The publication shall state the time and place the directors shall meet for hearing all parties interested in the apportionment of benefits by reason of the improvement and the time and place such parties may appear or file written objections thereto. The directors shall hear and consider the testimony and make the apportionments just, according to benefits received from the improvement, accounting for work already accomplished.

Source: SL 1984, ch 293, § 43.

46A-18-45. Election to approve financing--Vote required. No bonds may be issued and no financial commitments requiring the obligation of district taxes or assessments beyond the current fiscal year may be entered into, unless the directors have initiated hearings on the works proposed for construction and the benefits to accrue therefrom and have conducted an election in accordance with this chapter. A sixty percent favorable vote shall grant approval of a bond issue or other permissible financing arrangement.

Source: SL 1984, ch 293, § 44.

46A-18-46. Limitation of general tax levies and special assessments. No annual general tax levy, whether for annual district operation and maintenance expense or for payment of long term obligations, may exceed one dollar per thousand dollars of taxable valuation. No limitation applies to special assessments, except that special assessments may not be used to pay an obligation beyond the current business year of the district unless approved by an election of the affected landowners as provided in §§ 46A-18-45 and 46A-18-47.

Source: SL 1984, ch 293, § 45; SL 2007, ch 257, § 4.

46A-18-47. Eligibility to vote on tax levies and assessments. In the election provided in § 46A-18-45, all qualified voters of the district are eligible to vote. However, if special assessments are proposed, only those qualified voters of the district who are also landowners subject to the proposed assessments may vote. If the financing proposal provides for both general tax levies and special assessments, the votes applicable to the general tax and the votes applicable to the special assessments shall be counted separately and accepted separately for purposes of determining the outcome of the election.

Source: SL 1984, ch 293, § 46; SL 2002, ch 144, § 8; SL 2007, ch 257, § 5.

46A-18-48. Municipality contracting for payments to district--Election required. In lieu of tax levies or special assessments in municipalities, the district directors and the governing bodies of municipalities may enter into contracts for annual payments by the first or second municipality to the district. The governing bodies shall obligate amounts sufficient to cover annual payments to the district in the annual budgets of such municipalities. If contractual commitments between a district and a municipality are to meet, in part, obligations imposed by contract or other agreement between the district and an agency of the United States or the state, such commitments on behalf of a municipality shall be a continuing annual obligation during the life of the contract between the district and the United States in the same manner as though the municipality had entered into the contract or agreement with the United States under the provisions of § 9-36-15 or 9-43-137. In no case may the governing board of a municipality execute a contract or agreement with the district until a favorable vote by the electorate of the municipality has been obtained for payment by the municipality under provisions of § 9-42-2.

Source: SL 1984, ch 293, § 47; SL 1992, ch 60, § 2.

46A-18-49. Tax levy or assessment resolution--Filing--Collection. The directors, having completed an apportionment of benefits, shall prepare and by resolution approve a tax levy or assessment against real property within the district, or outside of the corporate limits of municipalities if a contract or contracts as provided in § 46A-18-48 are used, and shall annually file a detailed report with the appropriate county auditor by August first. The county auditor shall apply the district levy to the county tax rolls and collect the district levy in the same manner as other county taxes.

Source: SL 1984, ch 293, § 48; SL 1990, ch 366, § 13.

46A-18-50. Assessed valuation. The assessed valuation for district tax purposes shall be the same assessed valuation that is used for general county levies.

Source: SL 1984, ch 293, § 49.

46A-18-51. Delivery of tax collections to district. After collection, county officials shall monthly deliver taxes collected on behalf of the district to the district secretary-treasurer.

Source: SL 1984, ch 293, § 50; SL 1987, ch 332, § 4.

46A-18-52. Review of tax levies. Any party claiming to be aggrieved by the apportionment of the benefits or taxes or assessments may appeal in accordance with procedures established by state law for review of tax levies.

Source: SL 1984, ch 293, § 51.

46A-18-53. Warrants issued in anticipation of tax or special assessment collections. Following a favorable vote as provided in § 46A-18-45 and in anticipation of tax or special assessment collections, the directors may issue no-fund warrants to pay district obligations. However, the outstanding amounts of such no-fund warrants may not exceed the product of one dollar per thousand dollars of taxable valuation times the assessed valuation of the taxable real property within the district.

Source: SL 1984, ch 293, § 52; SL 1990, ch 366, § 14.

46A-18-54. Repealed by SL 1990, ch 366, § 15

46A-18-55. Special election on additional taxes or special assessments--Eligibility to vote. The directors may at any time call a special election to determine whether additional taxes or special assessments may be levied for the purpose of raising money for increased costs of district business or for a supplemental plan of improvements over and above the initial plan of improvements. Eligibility to vote in the special election is determined in accordance with the provisions of § 46A-18-47.

Source: SL 1984, ch 293, § 54; SL 1995, ch 253, § 18; SL 2007, ch 257, § 6.

46A-18-56. Operation and maintenance of completed projects--Budget. The directors shall provide for adequate annual maintenance of the district's project works once constructed. They shall adopt an overall project schedule of routine operation and maintenance. They shall prepare annual operation and maintenance budgets for each calendar year in which is stated the operation and maintenance work to be done during the budget year and the estimated cost.

Source: SL 1984, ch 293, § 55.

46A-18-57. Reserve fund for extraordinary maintenance or operation. The annual operation and maintenance budget shall include provisions for accumulation of a reserve fund for extraordinary maintenance or operation. The amount budgeted each year for the reserve fund shall be at least ten percent of the estimated cost of the annual routine operation and maintenance. Annual increments for the reserve fund shall be budgeted whenever the balance in the accumulated reserve fund is less than the current annual operation and maintenance budget. Expenditures from the reserve fund may be made by the directors if, in their judgment, extraordinary operation or maintenance of project works is necessary.

Source: SL 1984, ch 293, § 56.

46A-18-57.1. Reserve fund for project development and construction. In addition to the fund authorized in § 46A-18-57, the directors may establish a separate reserve fund for project development and construction. The directors shall publish the amount budgeted for the fund for the following calendar year, the amount of money in the fund, and an explanation of the intended use of the money in the fund with the notice of the annual meeting required in § 46A-18-24.

Source: SL 1990, ch 366, § 16; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1995, ch 253, § 19.

46A-18-58. Repealed by SL 1995, ch 253, § 20

46A-18-59. Levies for operation and maintenance. Tax or special assessment levies in an amount sufficient to cover the budgeted operation and maintenance expense shall be included by the district directors in their tax assessment list. However, the levies may not exceed the limitations specified in this chapter and may not exceed the amounts of taxes or special assessments approved by the electorate of the district.

Source: SL 1984, ch 293, § 58; SL 1986, ch 381, § 3.

46A-18-60. Certification of taxes and assessments--Collection--Deposit and disbursement of proceeds. On or before the first day of August of each year, the directors shall certify to the county auditor of each county in which district lands are located all taxes and assessments against the real property in the district. Extension of the taxes upon the tax and assessment lists shall be made as specified in this chapter and the taxes shall be collected in the same manner as other county taxes and assessments. These funds shall be deposited with the secretary-treasurer of the water project district, who shall place them in the depository designated by the directors. They shall be disbursed as provided in this chapter.

Source: SL 1984, ch 293, § 59; SL 1990, ch 366, § 17.

46A-18-61. Acceptance of grants and gifts. Any district organized pursuant to this chapter may obtain grants or loans from any federal or state agency pursuant to any acts of Congress or the Legislature independently or in conjunction with any other power conferred by this chapter and may accept, from private owners or other sources, gifts, deeds, or instruments of trust or title relating to any form of property.

Source: SL 1984, ch 293, § 60.

46A-18-62. County contributions to districts. In addition to other powers specified by law, a board of county commissioners may contribute to districts assistance as necessary for the benefit of the county highway system, for maintenance of flood control or for water management and erosion control measures from the road fund.

Source: SL 1984, ch 293, § 61.

46A-18-63. Acquisition of real property and easements--Condemnation. A district may purchase real property, rights-of-way, or easements as necessary. If necessary, it may condemn them. If a district finds it necessary for maintenance of any part of improvements already constructed to add further construction or other improvements, the district, if not able to agree with the landowner on the terms for the acquisition of the interest in land needed for such purpose, may condemn the property for the purpose of fixing the amount to be paid for the interest in property so taken. Appraisal of the property shall be made by a committee of appraisers approved by the directors.

Source: SL 1984, ch 293, § 62; SL 1995, ch 253, § 21.

46A-18-64. Contracts and arrangements by district authorized. The district directors may enter into contracts or other arrangements with the United States government or any department, with persons, with public and municipal corporations, with the government of this state, with drainage, soil and water conservation, conservancy, sewer, park, sanitary, reclamation, public power, irrigation, watershed, or other improvement districts, in this or other states. The contracts or arrangements may be for cooperation or assistance in constructing, maintaining, using, and operating the works of the districts, the waters thereof, or in minimizing or preventing damage to the properties, works and improvements of the districts from soil erosion, or for making surveys and investigations or reports thereon.

Source: SL 1984, ch 293, § 63.

46A-18-65. Contracts to furnish water--Other contracts. The district board may enter into contracts to furnish water and other services and may, subject to the provisions of this chapter, fix and establish prices, rates, and charges at which the resources and facilities made available under the provisions of this chapter shall be sold and disposed of. The board may enter into contracts and agreements and do any things which in its judgment are necessary, convenient, or expedient for the accomplishment of the purposes and objects of this chapter, under such general regulations and upon such terms, limitations, and conditions as it shall prescribe.

Source: SL 1984, ch 293, § 64.

46A-18-66. Pledge of security for obligations--Revenue. A district may pledge security for any district obligations. Any district issuing obligations under the provisions of this chapter may pledge all or any part of the revenues which the district may derive from the sale, conveyance, or distribution of water or other services as security for payment of the principal and interest. Any pledge of revenues shall be made by the directors of the district by resolution or by agreement with the holders of district obligations. Any resolution or agreement may specify the particular revenues that are pledged, the terms and conditions to be performed by the district and the rights of the holders of district obligations and may provide for priorities of liens on any revenues between holders of district obligations issued at different times or under different resolutions or agreements.

Source: SL 1984, ch 293, § 65.

46A-18-67. Depository for district funds. All funds of the district shall be deposited by the district secretary-treasurer in a depository designated and approved by the directors and all warrants shall be drawn on the district.

Source: SL 1984, ch 293, § 66.

46A-18-68. Claims against district--Payment by warrant or order--Registration. All claims against water project districts shall be paid by warrants or orders drawn on the district secretary-treasurer, signed by the chair of the district, and countersigned by its secretary-treasurer. If warrants or orders have been issued and delivered, they may be presented to the secretary-treasurer of the district. If necessary, the secretary-treasurer shall endorse them "not paid for want of funds." These orders or warrants shall be registered by the secretary-treasurer in order of presentation and shall draw interest annually at a rate negotiated by the parties from the date of registration. They shall be registered by the district secretary-treasurer in anticipated receipt of water project district taxes or assessments due the district.

Source: SL 1984, ch 293, § 67; SL 2011, ch 165, § 542.

46A-18-69. Services provided without charge to district. All county officials shall perform the services outlined in this chapter free of charge to the district. The services of the Board of Water and Natural Resources, as provided in this chapter, also shall be free of charge to the district.

Source: SL 1984, ch 293, § 68.

46A-18-70, 46A-18-71. Repealed by SL 1995, ch 253, §§ 22, 23

46A-18-71.1. Annual audit of district when loan agreement in effect--Filing of copies. At the close of each fiscal year during which any loan agreement is in effect pursuant to § 46A-3D-18, the water project district shall obtain an audit by the State Department of Legislative Audit, or an auditor approved by the State Department of Legislative Audit, of the books, records, and financial affairs of the water project district. A written report of the audit shall be kept on file in the principal place of business of the water project district, and copies of the report shall be filed in the Office of the Secretary of State and with the Board of Water and Natural Resources.

Source: SL 1986, ch 374, § 2.

46A-18-72. Investigation of district operations--Hearing--Order for correction. The Board of Water and Natural Resources may at any time investigate the operations of any district. If it discovers the operations are detrimental to proper utilization of waters or existing rights, the board may in its discretion hold a hearing to obtain facts and information. After the hearing, the Board of Water and Natural Resources may order the district directors to correct the operation. If the directors fail to make the ordered corrections, the board may procure a court order to prevent further detrimental operations.

Source: SL 1984, ch 293, § 71.

46A-18-73. Municipalities' powers as to waterworks unaffected. This chapter may not be construed to deprive any municipality within the state, located either wholly or partially within any district, from the exercise of any rights to construct, acquire, operate, maintain, or dispose of waterworks or to perform other of its lawful functions. However, any municipality may contract with any district for storage, purchase, or distribution of water for municipal, domestic, or industrial purposes.

Source: SL 1984, ch 293, § 72; SL 1992, ch 60, § 2.

46A-18-74. Petition for dissolution of district--Election--Notice--Ballots. Twenty-five or more qualified voters or twenty-five percent of the qualified voters of a water project district, whichever is less, may petition the district directors to submit to an election the question of dissolving the district and settling its bonded and other indebtedness. Upon receipt of the petition the directors shall call a special election to be held within no less than sixty days but no more than ninety days after receipt of the petition. Notice of the election shall be published in a legal newspaper of general circulation in each county or counties in the district once each week for three successive weeks. The notice shall state that an election is to be held to determine whether the water project district shall be dissolved. The ballots shall read as follows:

For dissolution of (Name) Water Project District ()

Against dissolution of (Name) Water Project District ().

Source: SL 1984, ch 293, § 73; SL 1990, ch 366, § 18.

46A-18-75. Vote required for dissolution--Winding-up procedure. If less than sixty percent of the votes cast in the election are for dissolution of the district, the district shall continue in operation and there may not be another vote on dissolving the district for one year. If at least sixty percent of the votes cast are for dissolution, the directors shall immediately in writing notify the Board of Water and Natural Resources and all persons having claims against the district. The real and personal property of the district shall be sold by auction to the highest bidder, as arranged by the directors, after notice of the time, place, and method of conducting the auction has been published in legal newspapers of general circulation in each county that has land within the district for two consecutive weeks prior to the auction. The proceeds of the auction shall be applied to the outstanding obligations of the district. After all obligations have been met, the remaining funds, if any, shall be prorated back to the landowners in proportion to the latest assessment rolls. However, if the district, prior to dissolution, has received any grants or loans from any federal or state agency or the Legislature independently or in conjunction with any other power conferred by this chapter or has received from private owners or other sources, gifts, deeds, or instruments of trust or title relating to any form of property, the unused portion of the items shall be returned to the contributing entity or person. If the contributing entity or person will not accept a return or is no longer in existence or alive and no direction as to disposition upon dissolution was given by the contributor, the unused portion shall be deposited in the water and environment fund, established pursuant to § 46A-1-60.

Source: SL 1984, ch 293, § 74; SL 1990, ch 366, § 19; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1992, ch 254, § 8; SL 1995, ch 253, § 24.

46A-18-76. Resolution dissolving district--Filing. Upon notification by the district directors of a vote to dissolve the district, the Board of Water and Natural Resources shall by resolution dissolve the water project

district and shall file a copy of the resolution with the secretary of state.

Source: SL 1984, ch 293, § 75.

46A-18-77. Satisfaction of obligations outstanding after dissolution. If, after a water project district has been dissolved and all assets of the district have been disposed of, any obligations of the district remain outstanding, the Board of Water and Natural Resources shall exercise the power and authority of the district board of directors until such time as all responsibilities, obligations, and contractual commitments of the dissolved district have been satisfied.

Source: SL 1984, ch 293, § 76.
