

and shall comply with the provisions of W.S. 1-33-101 through 1-33-110, in the performance of his duties.

## CHAPTER 8 - WATERSHED IMPROVEMENT DISTRICTS

### **41-8-101. Definitions.**

(a) "Director" means a director of a watershed improvement district, and "board of directors" means the governing body of a watershed improvement district.

(b) "Supervisor" means a supervisor of the soil and water conservation district in which a watershed improvement district is situated; and "board of supervisors" means the governing body of the soil and water conservation district in which a watershed improvement district is situated.

(c) "Landowner" means any person, or group of persons, firm or corporation holding title to, or occupying under a contract of purchase, any land lying within a watershed improvement district organized or proposed to be organized under the provisions of this act.

(d) "Due notice", for provisions other than election and referendum provisions, means notice published at least twice, with an interval of at least six (6) days between the two (2) publication dates, in a newspaper of general circulation within the boundaries of the proposed or organized district. The notice of any hearing required to be held under this act shall fix the time, place and purpose thereof, which time shall be not less than ten (10) or more than fifteen (15) days after the first publication or first posting of such notice. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates. Notice for any election or referendum required by this act shall be as specifically provided in this act, or if not specifically provided in this act, as required in the Special District Elections Act of 1994.

(e) Repealed by Laws 1998, ch. 115, § 5.

(f) "Written authorization" means an affidavit filed with the election official conducting the election setting forth a general legal description of the property owned, the street or common name address for the property, the name or names of all owners of the property described, and a statement that the

person signing the written authorization is the only person having authority to act on behalf of the owner or owners of the property.

**41-8-102. Purposes.**

The purposes of this act are to provide for the prevention and control of erosion, floodwater and sediment damages, for agricultural uses, and the storage, conservation development, utilization and disposal of water, and thereby to preserve and protect land and water resources, and protect and promote the health, safety and general welfare of the people of this state. Recreational use may be included in conjunction with projects developed in compliance with the purposes of this act, but nothing in this act shall be interpreted to give initial power of condemnation for recreational purposes. The watershed improvement district may enter into agreement with the owner for the maintenance of industrial development and domestic supply reservoirs.

**41-8-103. Formation.**

Watershed improvement districts may be formed as subdistricts of conservation districts as herein provided for the development and execution of plans and projects relating to any of the purposes set forth in W.S. 41-8-102. The conservation district in which such subdistricts are formed shall cooperate, advise and consult with the state conservation commission in matters pertaining to the organization, operation and maintenance of the watershed improvement district.

**41-8-104. Area.**

The land area embraced in a watershed improvement district must lie within the same or adjoining watershed or subwatershed areas. A watershed improvement district may embrace land lying in one (1) or more soil and water conservation districts. Land lying within the boundaries of one (1) watershed improvement district shall not be included in another watershed improvement district.

**41-8-105. Petition for establishment; filing generally; contents; copy to be furnished conservation commission.**

A petition to establish a watershed improvement district shall be filed with the board of supervisors of the conservation district in which the proposed watershed improvement district is

situated asking that a watershed improvement district be organized to function in the area described in the petition. The petition shall comply with the requirements of W.S. 22-29-105. A copy of the petition shall be furnished to the state conservation commission.

**41-8-106. Petition for establishment; establishment in more than 1 soil and water conservation district.**

If a proposed watershed improvement district is situated in more than one (1) conservation district, copies of such petition shall be presented to the board of supervisors of all the conservation districts in which any part of the proposed watershed improvement district is situated, and the supervisors of all the conservation districts shall act jointly as a board of supervisors with respect to all matters concerning the watershed improvement district, including its organization. The watershed improvement district shall be organized in like manner and shall have the same powers and duties as a watershed improvement district situated entirely in one (1) conservation district.

**41-8-107. Petition for establishment; hearing; notice.**

(a) The board of supervisors shall act upon the petition for formation in the same manner as set forth in W.S. 22-29-109 for county commissioners in determining if a petition for district formation shall be voted upon.

(b) If it appears upon the hearing that any land included in the petition will not be benefited by its inclusion within the proposed watershed improvement district, the board of supervisors shall exclude such land from the proposed watershed improvement district.

(c) If it appears upon the hearing that it may be desirable to include within the proposed watershed improvement district territory outside of the area described in the petition, the hearing shall be adjourned and due notice of a further hearing shall be given throughout the entire area considered for inclusion in the district, and a further hearing shall be held. After final hearing, if the board of supervisors determines, upon the facts presented at the hearing and upon other available information, that there is need, in the interest of the public health, safety and welfare for such a district to function in the territory considered at the hearing, it shall make and record such determination and shall define by metes and

bounds or by legal subdivisions, the boundaries of the district. The board of supervisors, in making the determination, may advise and consult with the state conservation commission.

(d) If the board of supervisors determines after the hearing that there is no need for such a district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition.

**41-8-108. Referendum prerequisite to establishment; generally.**

After the board of supervisors has made and recorded a determination that there is a need, in the interest of the public health, safety and welfare, for the creation of the proposed watershed improvement district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon the district in this act is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, by mail ballot or at the next election date authorized under W.S. 22-21-103 which is at least sixty (60) days after entry of the finding that there is need for the organization of a district and the determination of the boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of the district. Notice of the referendum shall be given by the board of supervisors as provided in the Special District Elections Act of 1994.

**41-8-109. Referendum prerequisite to establishment; voting; ballots; right of landowners to vote; proxies.**

(a) Repealed by Laws 1998, ch. 115, § 5.

(b) All qualified electors of the district and owners of land lying within the boundaries of the proposed district, as determined by written authorizations as specified in W.S. 41-8-101(f) and subsections (c) and (d) of this section, shall be eligible to vote in the referendum. In applying provisions of the Special District Elections Act of 1994 to this act, the terms "elector" or "voter" shall include qualified electors and landowners.

(c) A written authorization for voting purposes shall be filed with the election official conducting the special district election not later than thirty (30) days prior to the election.

(d) In examining any written authorization required or permitted to be signed by landowners, the county clerk or district secretary shall accept the first written authorization filed unless prior to certification the secretary or county clerk is furnished with written evidence, satisfactory to the county clerk or district secretary, that a new representative has been appointed by the owners, signed by a majority of the persons named as owners on the previously filed written authorization or as shown on a copy of a recorded deed attached to the written authorization.

**41-8-110. Referendum prerequisite to establishment; counting and recording votes; action upon results; certification of fact when created.**

The votes cast in the referendum shall be counted by the polling officers at the close of the polls and a report of the results, along with the ballots, shall be delivered to the polling superintendent, who shall certify the results to the board of supervisors; and the board shall then consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the board of supervisors shall determine that the operation of the watershed improvement district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the board of supervisors shall determine that the operation of the watershed improvement district is administratively practicable and feasible, it shall declare the watershed improvement district to be created; provided, however, that the board of supervisors shall not have authority to determine that the operation of the watershed improvement district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum, which affirmative votes represent a majority of the acreage contained in the proposed watershed improvement district, favor creation of the watershed improvement district. Upon declaring the watershed improvement district to be created, the board of supervisors shall certify the fact of the creation of the district to the county clerk of the county or counties in which the district is situated, for recordation; and the watershed improvement district shall thereupon constitute a governmental subdivision of this state and public body corporate and politic. After being recorded, the certificate of the board of supervisors shall be filed with the secretary of state, and a copy thereof shall be filed with the state conservation commission.

**41-8-111. Inclusion of additional land; detaching land; change of boundaries; change of name.**

(a) Petitions for including additional territory within an existing watershed improvement district may be filed with the board of supervisors, and in such cases the proceedings herein provided for with respect to petitions to organize watershed improvement districts shall be observed to the extent deemed practicable in acting upon petitions for the inclusion. In determining whether the operation of a watershed improvement district, including such additional territory, will be administratively practicable and feasible, the board of supervisors shall advise and consult with the directors of the existing watershed improvement district. Where the total number of owners of land in the area proposed for inclusion shall be less than ten (10), the petition may be filed when signed by a majority of the owners of land in the area, representing a majority of the acreage contained in the area, and in such case no referendum need be held. If the board of supervisors make a determination in favor of the inclusion of additional territory, it shall certify the fact of the inclusion of additional territory to the county clerk of the county or counties in which the watershed improvement district is situated. After being recorded, the certificate of the board of supervisors shall be filed with the secretary of state and a copy thereof shall be filed with the state conservation commission.

(b) The owner or owners of land which has not been, is not, and cannot be benefited by its inclusion in the watershed improvement district may petition the board of supervisors to have the land withdrawn. The petition shall describe the land and state the reasons why it should be withdrawn. A hearing shall be held within thirty (30) days after the petition is received. Due notice of the hearing shall be given by the board of supervisors. If it is determined by the board of supervisors that the land has not been, is not, and cannot be benefited by its inclusion in the watershed improvement district, the land shall be withdrawn from the district. A copy of such determination and withdrawal shall be certified to the county clerk of each county in which any portion of the withdrawn land is situated. After being recorded, the certification shall be filed with the secretary of state and a copy thereof shall be filed with the state conservation commission.

(c) Petitions for a change in the boundaries of watershed improvement districts may be filed with the board or boards of supervisors of the conservation district or districts to be

affected. The board of supervisors of the conservation district or joint board of supervisors if more than one (1) conservation district is affected may require the hearings or referenda as it deems appropriate to enable it to make a determination as to the desirability of the proposed change. If the board of supervisors or joint board of supervisors makes a determination in favor of the change in boundaries, it shall certify the fact of such change to the county clerk of the county or counties in which the watershed improvement district is situated and shall notify the board of directors of the watershed improvement district, setting out in the notice the new boundaries of the district. After being recorded, the certificate of the board of supervisors shall be filed with the secretary of state and a copy thereof shall be filed with the state conservation commission.

(d) Petitions for a change of name of a watershed improvement district may be submitted to the board or board of supervisors of the conservation district or districts in which the watershed improvement district is situated. If the board of supervisors approves the change of name, it shall certify the fact of the change of name to the county clerk of the county or counties in which the watershed improvement district is situated and shall notify the board of directors of the watershed improvement district of the change. After being recorded, the certificate shall be filed with the secretary of state and a copy thereof shall be filed with the state conservation commission.

**41-8-112. Board of directors; eligibility; election; terms; officers.**

(a) Within thirty (30) days after a watershed improvement district is created, the board of supervisors shall conduct an election to be held for the election of a board of directors of the watershed improvement district. Notice of the election shall be given by the board of supervisors as provided in the Special District Elections Act of 1994. The board of directors shall consist of five (5) members. The first board of directors shall determine by lot from among its membership, three (3) members to serve terms of four (4) years and two (2) members to serve terms of two (2) years until their successors are elected at a regular subsequent director election. Thereafter, as these initial terms expire, the members of the board of directors shall be elected for terms of four (4) years. For a board of directors existing prior to July 1, 2017, beginning January 1, 2018, at the first regular subsequent director election, the board shall determine

by lot from among its membership, three (3) members to serve terms of four (4) years and two (2) members to serve terms of two (2) years. Thereafter, as these initial terms expire, the members of the board of directors shall be elected for terms of four (4) years. No current term of any director shall be affected by any modification made under this subsection. The board of supervisors of the conservation district shall conduct these elections every other year. These elections shall be in accordance with the Special District Elections Act of 1994. Vacancies occurring before the expiration of a term shall be filled for the unexpired term by appointment by the remaining members of the board of directors with the approval of the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed improvement district.

(b) The board of directors shall annually elect from its membership a chairman, secretary and treasurer. The treasurer shall execute a surety bond for the faithful performance of the duties of his office, which bond shall be approved by the board of directors. Any premium for the bond shall be paid by the watershed improvement district. The district shall be subject to oversight of its accounts by the director of the state department of audit or his designee, in accordance with W.S. 9-1-507(a)(iii) or 16-4-121(f), as applicable. The board of directors shall file an annual report with the board of supervisors before the first day of March containing a financial statement, operation and maintenance activities for the preceding year and their proposed developments for the current year. A copy of the annual report shall be filed in the state conservation commission by the board of supervisors.

(c) Applications for election may be filed with the board of supervisors by candidates for directors of the watershed improvement district as provided in the Special District Elections Act of 1994. No person shall be eligible to be a director of a watershed improvement district who is not an owner of land within the watershed improvement district in which he seeks election, or who is a supervisor on the conservation district board.

(d) The board of directors shall hold joint quarterly meetings with the governing board of supervisors to consult and advise upon the activities of the watershed improvement district, one of such quarterly meetings shall consist of an inspection tour of the district by the boards jointly.

**41-8-113. Board of directors; powers generally.**

(a) Under the supervision of the board of supervisors, the board of directors of a watershed improvement district shall have power to:

(i) Levy and collect assessments for special benefits accruing to land, as hereinafter provided;

(ii) Acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; maintain, administer, and improve any such property; and sell, lease, or otherwise dispose of any such property in furtherance of the purposes and provisions of this act;

(iii) Exercise the power of eminent domain and in the manner provided by law for the condemnation of private property for public use;

(iv) Construct, improve, operate and contract for the maintenance of such structures as may be necessary for the performance of any authorized function of the watershed improvement district;

(v) Borrow such money as is necessary to carry out any of the purposes and provisions of this act, and issue, negotiate, sell its bonds or other evidence of indebtedness as provided in W.S. 41-8-114;

(vi) Cooperate with, and receive from or grant assistance to, towns, cities, counties, and state and federal agencies in carrying out the purposes and provisions of this act.

**41-8-114. Board of directors; issuance of bonds.**

(a) Bonds authorized by W.S. 41-8-113 shall not be issued until proposed by order or resolution of the board of directors specifying the purpose for which the funds are to be used, the rate of interest the bonds are to bear, the amount of the proposed bond issue, terms of the bonds, and the proposed method of payment and redemption of the bonds prior to maturity. A copy of the order or resolution shall be certified to the board of supervisors.

(b) The board of directors shall conduct a hearing on such proposal after due notice of such hearing has been given. If it appears that the proposal is within the scope and purpose of this act and meets all other requirements of the law, the proposal shall be submitted to the landowners of the watershed improvement district by a referendum held under the supervision of the board of supervisors.

(c) The provisions of W.S. 41-8-107 through 41-8-110, as to notice and manner of holding a referendum in organizing a watershed improvement district shall be applicable to the referendum held under this section. Any referendum held under this section shall be held by mail ballot or on an election date authorized under W.S. 22-21-103.

(d) If two-thirds (2/3) of the votes cast, which votes represent a majority of the acreage contained in the watershed improvement district, are in favor of the proposed bond issue, such bonds shall be authorized and may be issued.

(e) Bonds authorized and issued shall bear interest payable annually, and shall be due and payable not more than fifty (50) years from their dates. The form, terms and provisions of the bonds, provision for their payment and provisions for their retirement and calling not inconsistent with law, shall be determined by the board of supervisors. The bonds are exempt from all state, county, municipal, school and other taxes imposed by a taxing authority of this state.

**41-8-115. Board of directors; per diem and mileage.**

Members of the board of directors shall receive no salaries, but such members may be entitled to expenses for meetings and travel in the performance of their duties as approved by the board of supervisors.

**41-8-116. Hearing on proposed projects.**

(a) Before any contract shall be let or work begun upon any improvement or project within the watershed improvement district, the cost of which cannot be exclusively financed by funds on hand, grants in aid, or financial assistance or gifts to the district, or before any contract may be entered into by the district with any governmental agency or body which will obligate the district to contribute financially beyond the extent of funds of the district then on hand, it shall be the duty of the board of directors to set a time and place within

the district for a public hearing upon such proposal. Due notice of such hearing shall be given by the board of directors.

(b) At the time and place fixed for such hearing any owner of land situated within the watershed improvement district, or any other interested person, may appear and be heard as to his objections to such proposal.

(c) Following the public hearing the board of directors shall, by order or resolution, either affirm the proposal with or without modification or amendments, or disapprove the proposal. If the board of directors affirms the proposal, it shall determine the probable cost of and the proposed method of financing the improvement or project, the benefits to be derived therefrom, and whether the benefits will be conferred upon all land within the watershed improvement district or upon only certain land within the district, in which latter case the land to be benefited shall be described as to boundaries, ownership, and approximate acreage.

**41-8-117. Appointment of appraisers and appraisal of benefited property.**

If the board of directors determines that the proposed improvement or project should be constructed and that the costs thereof should be paid by special assessment against the land benefited by such improvement or project, it shall appoint three (3) qualified and disinterested residents of the state to act as appraisers. The appraisers shall inspect the plans and specifications of the proposed improvement or project and examine all land likely to be benefited thereby. The appraisers shall make and file with the board of directors a detailed report showing all tracts of land within the watershed improvement district found to be benefited, together with the acreage thereof, the name of the record owner of each tract, the amount each tract will be benefited, and the amount of assessment to be levied against each tract, which assessment against each tract shall be in proportion to the benefits accruing to such tract. Any necessary expenses connected with making the appraisal by the three (3) appraisers shall be paid by the watershed improvement district.

**41-8-118. Hearing on report of appraisers.**

Upon receiving the report of the appraisers the board of directors shall fix a time and place within the watershed improvement district for hearing any complaint that may be made

regarding the benefits appraised to any tract of land or the assessment proposed to be levied against any tract of land. Due notice of such hearing shall be given by the board of directors. At the time and place fixed for such hearing the board of directors shall consider the report of the appraisers and consider and hear any objections filed or voiced thereto. The board of directors shall, by order or resolution, reject the report of the appraisers or accept the report and ratify it with or without modification or amendments.

**41-8-119. Appeal from approval of project or determination of benefits or assessments.**

(a) Any owner of land or person having an interest therein upon which an assessment is proposed to be levied may, within thirty (30) days from such order or resolution of the board of directors accepting the report of the appraisers, file with the clerk of the district court a written notice making demand for trial by the court. The notice shall state definitely from what part of such order or resolution the appeal is taken and shall set forth any other objections of the appellant. In case more than one (1) appeal is taken, the court may, upon finding that the appeals may be consolidated without injury to the interests of anyone, consolidate and try the appeals together. Any hearing on appeal provided for herein in the district court shall be de novo, and the district court shall consider not only the question of procedure but also the merits of the point or points appealed from, including but not limited to eminent domain proceedings. Any appeal from a decision of the district court shall follow the usual rules of civil procedure.

(b) If no appeal is taken within the time prescribed in this section from such order or resolution of the board of directors accepting the report of the appraisers, or after the finding of the court in case an appeal is taken from such order or resolution of the board of directors, then such assessments shall be final and conclusive and shall constitute perpetual liens upon the land so assessed until they are fully paid.

**41-8-120. Assessment of benefits against land of state and its subdivisions.**

In case land belonging to the state, or a county, school district, or other public corporation is benefited by any improvement or project constructed under the provisions of this act, all of such benefits shall be assessed against such land and the assessments shall be paid by the proper authorities at

the same time as the assessments are called and paid in the cases of private persons.

**41-8-121. Assessments generally.**

(a) The board of directors shall, on or before the third Monday in July of each year, certify to the board of county commissioners of the county within the watershed improvement district in which assessed land is located the amount of the annual installments of assessments against the land, together with a fair proportionate amount of the estimated operating and maintenance charges apportioned to the land for the next succeeding year. Thereupon the county commissioners shall certify to and deliver the assessment roll to the county assessor of the county and the county assessor shall extend the amounts so certified on the tax roll as a flat special assessment against the land benefited. The assessments shall be subject to the same interest and penalties in case of delinquency as in the case of general taxes, and shall be collected at the same time and in the same manner as in the case of general taxes; provided, that the assessments shall become due and payable only at the times and in the amounts as may be determined by the board of directors.

(b) The board of directors in making the annual assessments and levies as herein provided, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, the maturing of bonds and interests on all bonds, and deficiencies and defaults of prior years, and shall make ample provisions for the payment thereof; provided however, that no one (1) yearly call for assessment by the board of directors shall be in an amount to exceed ten percent (10%) of the actual amount necessary to defray the cost of the construction of the improvement or project.

**41-8-122. Levy, collection and disposition of taxes and special assessments; expenditure of funds.**

It shall be the duty of the officer or body having authority to levy taxes within each county, to levy the taxes and special assessments as provided in this act and it shall be the duty of all county officials, charged with the duty of collecting taxes, to collect the taxes and special assessments as provided in this act in the time, form and manner and with like interest and penalties as city or county taxes are collected, and when collected to pay the same to the board of directors of the watershed improvement district ordering their levy and

collection and the payments of such collections shall be made through the treasurer of the watershed improvement district and deposited in the depository thereof to the credit of such district. All expenditures of such funds shall be made by the board of directors upon order of the board, under the supervision of the board of supervisors.

**41-8-123. Lien of assessment; collection of delinquent assessments.**

All taxes and assessments levied against any land under this act together with all interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien upon such land on a parity with the tax lien of general, state, county, city, town or school taxes and no sale of such land to enforce any general, state, county, city, town or school tax or other liens shall extinguish the perpetual lien of such taxes and assessments. If the taxes and assessments levied are not paid as herein provided, then such land shall be sold at the regular tax sale for the payment of said taxes and assessments, interest and penalties, in the manner provided by the statutes of this state for selling real property for nonpayment of general taxes.

**41-8-124. Repealed by Laws 1998, ch. 115, § 5.**

**41-8-125. Supervision upon discontinuance.**

If any soil and water conservation district in which a watershed improvement district is situated is discontinued, the state soil and water conservation committee [conservation commission] shall thereafter serve in the same supervising capacity over the watershed improvement district as was theretofore served by the board of supervisors of such soil and water conservation district.

**41-8-126. Existing water rights preserved.**

Nothing in this act shall be so construed as to in any manner impair existing water rights, appropriations or priorities.

CHAPTER 9 - DRAINAGE DISTRICTS

ARTICLE 1 - ORGANIZATION AND PRELIMINARY REPORT OF COMMISSIONERS

**41-9-101. Petition for organization; when filed; contents; service of notice or petitions generally.**