WATERSHED DISTRICTS STUDY - BACKGROUND MEMORANDUM

Senate Concurrent Resolution No. 4041 (1997), a copy of which is attached as Appendix A, directs the Legislative Council to study the establishment of watershed districts to manage water based on watershed boundaries. Proponents of the study testified at the standing committee hearings on the resolution that the establishment of watershed districts to manage water based on watershed boundaries should be studied in light of the flooding at Devils Lake. The resolution was supported by representatives of the North Dakota Water Resource Districts Association, North Dakota Water Users Association, Rural Water Systems Association, and the State Engineer.

WATER RESOURCE DISTRICTS

The creation and operation of water resource districts is governed by North Dakota Century Code (NDCC) Chapters 61-16 and 61-16.1. Section 61-16-05 requires that all land in North Dakota must be within a water resource district. Section 61-16-06.1 provides that any two or more water resource districts may be consolidated into a single district or existing districts may be adjusted to reflect watershed boundaries, as determined by the State Engineer, by filing with the State Water Commission a petition signed by a majority of the members of the board of each of the districts or 50 percent or more of the landowners within each of the districts. A petition filed by the district boards must be accompanied by a certified copy of the resolution of the governing boards authorizing the signing of the petition.

A petition must contain a detailed plan for the disposition of the property, assets, and liabilities of each of the districts. The plan must be as equitable as practicable to every landowner within the districts and must fully protect creditors and the holders of improvement warrants of the petitioning districts. The State Water Commission is required to hold a public hearing and the State Engineer is required to make, before the hearing, an investigation of the need for consolidation of the petitioning districts and to submit a report of the findings to the State Water Commission at the petition hearing. If the State Water Commission finds that it is not feasible, desirable, or practicable to consolidate the petitioning districts, it must deny the petition and state the reasons for the denial. If, however, the State Water Commission finds the problems of flood control, watershed development or improvement, drainage, water supply, or other reasons make consolidation or boundary adjustment and establishment of the proposed water resource district desirable, it must grant the petition and create the district. Upon creation of the new water resource district, the State Water Commission is to dissolve the included districts or make necessary boundary adjustments to existing districts.

Chapter 61-16.1 governs the operation of water resource districts. This chapter contains the powers and duties of water resource districts, including their basic authority, authority to finance projects, regulatory powers, and enforcement powers. Briefly, a water resource district may finance its operations or local projects through a general districtwide mill levy of not more than four mills for each individual water resource district, special assessments, user fees, revenue bonds or improvement warrants, and state or federal cost-sharing. In addition, joint water resource boards may levy an additional two mills for water projects.

Concerning the regulatory powers of water resource districts, districts are charged with the statutory responsibility to review and improve or deny permits for dikes, dams, and other devices that are capable of retaining, impounding, diverting, or obliterating more than 12.5 acre feet of water and drains that drain a pond, slough, or lake, or any series thereof with a watershed area of 80 acres or more. Under NDCC Sections 61-16-1-51, 61-16-1-53, and 61-32-07, water resource districts have statutory responsibility to remove obstructions to artificial drains and restructure watercourses; take enforcement actions for unauthorized construction of a dike, dam, or other device for retaining, obstructing, or diverting water; and take enforcement actions for the unauthorized drainage of wetlands.

HISTORY OF WATER RESOURCE DISTRICTS

The State Water Commission has described the history of North Dakota's water resource districts in a water guide on water resource districts. This guide notes that the earliest beginnings of water resource districts can be traced to county drain boards. Legislation enabling the creation of drain boards was first enacted in 1895 to provide for the drainage of agricultural lands. However, it was not until 1935 that the Legislative Assembly established water conservation districts responsible for a broad range of water management and water development matters at the local level. Under 1935 S.L., ch. 228, water
conservation districts could be established only by the order of the State Water Conservation Commission upon receipt of a petition from any county, city, or township, or from 50 percent of the landowners within the proposed district. However, the Legislative Assembly, because it recognized the advantage of watershed boundaries over artificial or political boundaries, specifically directed the State Water Conservation Commission not to be constrained to county and township boundaries when creating districts.

The initial water management laws, codified as Chapter 61-16, remained virtually unchanged until 1957. At that time, the Legislative Assembly enacted a comprehensive reform of water management statutes and changed the name of local water conservation districts to water conservation and flood control districts. The State Water Conservation Commission retained authority to create districts and establish the boundaries upon receipt of a proper petition. However, the commission was given the authority to include additional watershed areas benefited by the creation of the district.

In 1973, the Legislative Assembly determined that all land in the state should be contained within a water conservation and flood control district. Most districts were created along county boundaries. Also, at this time, the name of water conservation and flood control districts was changed to water management districts.

The Legislative Assembly enacted a second comprehensive reform of water management in 1981. The Legislative Assembly expanded the powers and authority of water management districts and made several changes to improve the effectiveness of local government in addressing water issues. The Legislative Assembly eliminated legal drain boards, transferred the powers and authority of legal drain boards to water management districts and renamed legal drains assessment drains. Also, recognizing the increased responsibilities of water management districts, the Legislative Assembly again changed their name, this time to water resource districts.

When water resource districts were first created in 1935, the Legislative Assembly gave the State Water Commission the authority to set boundaries and specifically directed the commission not to consider county and township boundaries when creating districts. Section 61-16-05, as it existed in 1935, provided:

Areas to be included within district - How determined. In determining the area to be included within the district, the commission shall disregard township and county boundaries and shall consider only the drainage areas to be affected by the water development proposed and the probable future development thereof. Whenever practicable, such boundaries shall follow section lines.

Thus, at that time, the Legislative Assembly preferred watershed boundaries over artificial or political boundaries for water resource districts and gave the State Water Commission sole discretion to determine and establish the boundaries of water resource districts.

Section 61-16-05 was amended in 1957 to provide:

Area to be included within district - How determined. The area or areas to be included in a water conservation and flood control district shall embrace the territory described in the petition for the creation thereof. The commission shall, however, consider and may include within boundaries of the district, the watershed and drainage areas which will be benefited by the construction and maintenance of works therein for water conservation, flood control or drainage as the case may be.

Thus, beginning in 1957, boundaries for water resource districts were established as requested in the petition, yet the State Water Commission had the authority to include additional watershed and drainage areas benefited by the creation of the district. The evolution of water resource districts has resulted in a water resource district in every county in North Dakota. A map of North Dakota’s Water Resource Districts is attached as Appendix B. In five counties, more than one water resource district exists. Also, there are 11 joint water resource districts operating in North Dakota. These include the West River Joint Board, the BOMMM Joint Board, the Souris River Joint Board, the Hurricane Lake Joint Board, the Rocky Run Joint Board, the Red River Joint Board, the Upper Sheyenne Joint Board, the Maple-Richland Joint Board, the Devils Lake Joint Board, the James River Joint Board, and the Tri-County Joint Board.

1979-80 WATER MANAGEMENT STUDY

House Concurrent Resolution No. 3022 (1979) directed a Legislative Council study of the powers, duties, and jurisdictional boundaries of water management districts and legal drain boards. The objective of the study was to determine the most effective and efficient methods to provide for management, at the local level, of the state’s water resources. The issue before the 1979-80 interim Natural Resources Committee was whether the then current water management system represented the most effective and efficient method of providing for local water management and, if not, what steps could be taken to provide for such water management. The
committee heard testimony that water could be more effectively managed on the local level if the management agencies had jurisdictional boundaries along watershed lines and if local efforts were not duplicated by their agency. As a result of the study, the committee recommended a bill that would have established water district boundaries along watershed lines where feasible. However, in no event could water district boundaries divide a section or a city and the bill established a minimum of 25 and a maximum of 40 water resource districts in the state. A copy of the bill, as introduced, is attached as Appendix C. Although this bill was enacted by the 1981 Legislative Assembly, the provisions relating to establishing water resource district boundaries on watershed boundaries were removed.

POSSIBLE STUDY APPROACH

In carrying out the study of the establishment of watershed districts to manage water based on watershed boundaries, the committee could solicit testimony on the operation of water resource districts and whether water could be more effectively and efficiently managed on watershed, as opposed to artificial, boundaries. In conducting this study, the committee could solicit testimony from a number of sources, including the State Engineer, the North Dakota Association of Water Resource Districts, the North Dakota Association of Counties, the North Dakota Water Users Association, the North Dakota Water Coalition, and representatives from various agricultural groups.

ATTACH:3
A concurrent resolution directing the Legislative Council to study the establishment of watershed districts to manage water based on watershed boundaries.

WHEREAS, the effective management of the state's water resources is essential to the health, prosperity, and general welfare of the citizens of North Dakota; and

WHEREAS, most of the state's existing water resource political subdivisions are based upon political boundaries and not hydrologic boundaries; and

WHEREAS, the state's rivers, streams, and watersheds do not correspond with existing political boundaries; and

WHEREAS, many watershedwide issues such as channel maintenance, upstream drainage, and drain maintenance extend across the boundaries of existing water-related political subdivisions and necessarily require watershedwide or regionwide solutions that smaller water-related political entities are incapable of providing;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council study the establishment of watershed districts to manage water based on watershed boundaries; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 28, 1997
A BILL for an Act to create and enact chapter 61-16.1 of the North Dakota Century Code, relating to the creation of water resource districts with boundaries based on hydrologic patterns; selection of interim water resource boards; establishment of subdistricts; election of water resource boards; assumption of assets and obligations; expenses of managers; water resource district budget; powers, duties, and responsibilities of water resource board; revenue bonds; development of master plans; financing of water resource projects; procedures for construction of water resource projects; to amend and reenact sections 61-01-06, 61-21-01, 61-21-11, and 61-21-41 of the North Dakota Century Code, relating to watercourses and assessment drains; to repeal section 61-01-22, chapter 61-16, and sections 61-21-03, 61-21-04, 61-21-05, 61-21-06, 61-21-07, 61-21-08, 61-21-09 of the North Dakota Century Code, relating to drainage permits, water management districts, and board of drainage commissioners; to set partial effective dates; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. Chapter 61-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16.1-01. SHORT TITLE. This chapter may be cited and shall be known as the Water Management Reorganization Act of 1981.

61-16.1-02. LEGISLATIVE INTENT AND PURPOSE. The legislative assembly of North Dakota hereby recognizes and
Forty-seventh  
Legislative Assembly  
decides that the general welfare and the protection of the  
lives, health, property, and the rights of all people of this  
state require that the management, conservation, protection,  
development, and control of waters in this state, public or  
private, navigable or nonnavigable, surface or subsurface, the  
control of floods, the prevention of damage to property  
therefrom, and the regulation and prevention of water  
pollution, involve and necessitate the exercise of the  
sovereign powers of this state and are affected with and  
concern a public purpose. To realize these objectives it is  
hereby declared to be the policy of the state to provide for  
the management, conservation, protection, development, and  
control of water resources and for the prevention of flood  
damage in the watersheds of this state and thereby to protect  
and promote the health, safety, and general welfare of the  
people of this state.  

The legislative assembly further recognizes the  
significant achievements that have been made in the management,  
conservation, protection, development, and control of our water  
and related land resources, and declares that the most  
efficient and effective method of furthering these achievements  
is by creating water resource districts encompassing all of the  
area of the state, in accordance with hydrologic boundaries, as  
provided by this chapter. The legislative assembly further  
declares that the functions heretofore performed by water  
management districts and boards of drainage commissioners shall  
be consolidated and made functions of water resource districts.  
All acts necessary to complete the organization of water  
resource districts as authorized by this chapter shall be  
completed on or before January 1, 1983, and all water resource  
districts shall commence operation on February 1, 1983, with  
full authority to exercise the powers, duties, and  
responsibilities provided in this chapter.  

61-16.1-03. DEFINITIONS. In this chapter, unless the  
context or subject matter otherwise provides:
1. "Affected landowners" means landowners whose land is subject to special assessment or condemnation for a project.

2. "Assessment drain" means any natural watercourse opened, or proposed to be opened, and improved for the purpose of drainage and any artificial drain of any nature or description constructed for the purpose of drainage, including dikes and appurtenant works, which are financed in whole or in part by special assessment. This definition may include more than one watercourse or artificial channel constructed for the purpose of drainage when the watercourses or channels drain land within a single drainage area.

3. "Commission" means the state water commission.

4. "Conservation" means planned management of water resources to prevent exploitation, destruction, neglect, or waste.

5. "District" means a water resource district.

6. "Project" means any undertaking for water conservation, flood control, water supply, water delivery, erosion control and watershed improvement, drainage of surface waters, collection, processing, and treatment of sewage, or discharge of sewage effluent, or any combination thereof, including incidental features of any such undertaking.

7. "Water resource board" means the water resource district's board of managers.

61-16.1-04. WATER RESOURCE DISTRICTS - BOUNDARIES. In furtherance of the policy set forth in section 61-16.1-02, the entire area of the state of North Dakota shall be divided into water resource districts. The state engineer, in accordance with this section, is hereby authorized and directed to determine and establish the exact number, and the boundaries of such districts. The exact number and boundaries of districts as determined by the state engineer shall be subject to the
approval of the state water commission. Final approval of the
state water commission shall be subject to appeal to the
district court, if taken within thirty days. Boundaries of
water resource districts shall be established and approved on
or before January 1, 1982. When establishing such boundaries,
the state engineer shall employ the following guidelines and
criteria:

1. The primary objective shall be to establish
boundaries which provide for effective coordination,
planning, development, and general management of
areas which have related water resource issues. To
the extent that this primary objective will be
accomplished, these areas shall be determined
according to hydrologic patterns, utilizing
recognized river basins of the state. However,
existing boundaries of counties, townships, and other
political subdivisions or taxing districts shall be
followed wherever feasible and consistent with the
primary objective. Where appropriate and necessary
for more efficient development and general
management, two or more districts may be created
within a river basin.

2. The state engineer shall prepare suggested
boundaries, and shall send such suggested boundaries
and associated material to each water management
district and county auditor in the state. Not less
than thirty days later, the state engineer shall
arrange a meeting with the water management districts
and county auditors in each area of the state to
establish water resource district boundaries in
accordance with this section. The state engineer
shall then hold extensive public hearings in each
area. Notice of those public hearings shall be
published at least once a week for two consecutive
weeks in the newspaper or newspapers of general
circulation in each area, and in the official county
copyright of each county. In determining and
establishing the boundaries for districts, due
recognition and emphasis shall be given to the wishes
of the local people, the affected water management
districts, and any affected county administrative
officials, consistent with these guidelines and
criteria.

3. Watershed boundaries shall follow approximate
hydrologic patterns except where doing so would
divide a section or a city, or produce similar
incongruities which might hinder the effective
operation of the districts.

4. Districts shall be of sufficient size to provide
adequate finances and administration for plans of
improvement, and at the same time provide for optimum
local representation.

5. The number of water resource districts shall be not
less than twenty-five nor more than forty.

61-16.1-05. ORDER CREATING WATER RESOURCE DISTRICTS.

Upon final determination and approval of the number and
boundaries of water resource districts, the state water
commission shall issue an order of establishment for each water
resource district. The commission's order shall specify the
name by which a district shall be known. A certified copy of
the order establishing each water resource district shall be
filed with the county auditor of each county all or any portion
of which is encompassed by the district. A copy of the order
shall also be filed with the secretary of state. The secretary
of state shall issue to the state water commission a
certificate, bearing the seal of the state, of the due
organization of the district, and shall file a copy of the
certificate and the commission's order creating the district.
The secretary of state's certificate, or a copy authenticated
by the secretary of state, shall be prima facie evidence of the
61-16.1-06. CHANGE OF BOUNDARIES.

1. Upon written request from one or more districts, made upon majority vote of each involved water resource board, the state water commission shall have the power to change the boundaries of the water resource districts to combine two or more such districts into a single district, or to divide one district into two or more districts. The written request shall set forth the existing boundaries of the affected districts and the proposed new boundaries or the legal description of lands proposed to be transferred to any adjoining district, or both. In considering such request, the state water commission shall be bound by the criteria and procedures provided by this chapter for the initial establishment of water resource districts and shall follow the procedure set forth in subsections 2 through 4 of this section.

2. Within sixty days after a proposal for a change of boundaries is made and filed with the commission, the commission shall publish notice of a public hearing on the question at least once a week for two consecutive weeks in the legal newspaper or newspapers of general circulation in the areas affected, and in the official county newspaper of each county all or a portion of which is affected by the proposed change. A public hearing shall then be held as set forth in the notice.

3. After the hearing, as provided in subsection 2 of this section, the commission, after considering the recommendations of the affected water resource boards, shall determine upon the basis of the
proposed change, upon the facts and evidence
presented at such hearing, upon consideration of the
standards provided in section 61-16.1-04 relative to
the organization of districts, and upon such other
relevant facts and information as may be available,
whether such changes in boundaries would improve the
efficient development and general management of water
resources, and would be administratively and
financially practicable and feasible.

4. If the commission approves the change or changes, it
shall forward a resolution to the secretary of state
certifying that the boundary between the districts
has been changed in accordance with the procedures
prescribed in this section and setting forth the new
boundary line, or the legal descriptions of the lands
transferred or both, as in the judgment of the
commission shall be adequate to describe such
boundary changes. When the resolutions and statement
have been filed with the secretary of state, the
change in boundary shall be deemed effective and the
secretary of state shall issue to the commission a
certificate evidencing the change of boundaries. The
commission shall provide a copy of the certificate to
the water resource board of each affected district
and to the county auditor of each county affected by
the change in boundaries.

61-16.1-07. ASSUMPTION OF ASSETS AND LIABILITIES.
1. Each district established pursuant to section
61-16.1-04 shall assume, on or before April 1, 1983,
all assets, liabilities and obligations of any water
management district or county drain board whose
territory is included within the boundaries of the
water resource district. When the jurisdiction of
any water management district or county drain board
is included within two or more water resource
districts, the state engineer shall determine the
apportionment of any assets, liabilities, and
obligations. Such apportionment shall be based on
the proportionate amount of taxable valuation
included in each district. Property interests and
physical assets attached to the land shall be assumed
by the district in which they are located. The value
of property interests and attached physical assets
shall be considered in the apportionment of the
assets, liabilities, and obligations, and any such
assets may be encumbered or otherwise liquidated by
the assuming district to effect the proper
apportionment. Prior to February 1, 1983, and for
review by each affected water resource board, each
water management district and county drain board
shall have a certified public accountant prepare a
final audit of its financial records, including all
assets, liabilities, and obligations.

2. All taxes levied in 1982 pursuant to sections
61-16-12 and 61-21-09 for water management districts
or county drain boards which are not available or
paid to such districts until after January 1, 1983,
shall be treated as assets of such water management
districts and county drain boards, and such funds
shall be paid to the order of the water resource
district or districts in which such water management
district or county drainage district is located, in
the proportionate amounts as other assets are to be
divided. Tax funds in possession of or payable to
each water management district or county drain board
at the time of merger shall be put in a special fund
of the water resource district or districts receiving
the assets of such water management district or
county drain board. Such funds shall be expended
within the boundaries of the water management
districts or county drainage districts for projects which benefit those districts, or shall be used to satisfy general mill levy obligations of the area within those districts. Expenditure of the funds for projects shall be limited to the amount of benefits accruing to the area within such water management district or county drainage district.

3. Tax funds available through 1982 which have been committed by a water management district to a project which has been approved by the water management district prior to July 1, 1982, shall be transferred to the water resource district in which area the project is located, and shall be reserved by the water resource district for the designated project.

61-16.1-08. NUMBER OF MANAGERS. Beginning on January 1, 1983, each district shall be governed by a water resource board of three, five, seven, or nine managers, the number to be recommended to the state engineer by the interim board of managers on or before July 1, 1982. The state engineer, with the approval of the state water commission, shall determine the number of managers, and in making such determination shall consider the number recommended by the interim board, the complexity of the foreseeable programs, the population and land area of the district, and the number of subdistricts.

In addition to the three, five, seven, or nine managers elected to a water resource board, water management district commissioners not elected to water resource boards may, if they desire, serve as ex officio, nonvoting members on the water resource board of the resource district in which they reside, beginning on January 1, 1983, and terminating on December 31, 1984, or at the expiration of their regular terms, whichever is first. These ex officio members shall receive compensation and expenses for their service as provided in section 61-16.1-13.
Forty-seventh
Legislative Assembly
61-16.1-09. INTERIM BOARD OF MANAGERS. To ensure
continuity in completing existing programs and to promote the
efficient and effective transition of powers and programs of
existing water management districts and county drain boards, as
provided by this chapter, all commissioners of a water
management district or drain board the majority or entirety of
which is located within a water resource district shall
comprise the interim board of the water resource district.
These individuals shall be officially convened on or before
February 1, 1982, by the state engineer as interim boards of
the respective water resource districts. The state engineer
shall, by order, establish the time, date, and place of the
first meeting of the interim board, at which time and place the
board members shall elect temporary officers. The duties of
each interim board shall be completed no later than
April 1, 1983. The responsibility of this interim board shall
include assumption of assets and liabilities pursuant to
section 61-16.1-07, all acts necessary to accomplish the
requirements of section 61-16.1-10 for the first election, and
creation of subdistricts for nomination of candidates for
managers. In the establishment of subdistricts, which shall be
complete on or before July 1, 1982, the interim board shall
give due regard to all factors including the extent that works
of improvement are located in rural areas and the extent to
which population and taxable property are located in urban
areas and the wishes of the people in the district. Creation
of subdistricts shall require approval of the state water
commission. Vacancies on such boards during the period of
February 1, 1982, to January 1, 1983, shall be filled through
appointment by the interim board.
61-16.1-10. ELECTION OF MANAGERS.
1. An election of water resource district managers shall
be held on the first Tuesday in October of each
even-numbered year. At each biennial election,
members of the water resource board shall be elected
to fill all vacancies caused by the expiration of
terms of office or otherwise. District managers
shall be elected for four-year terms, except when
elected to serve an unexpired term. Regular terms
shall commence on January 1 following the regular
election.

2. Managers of water resource districts shall be elected
on a nonpartisan ballot and shall pay no filing fee.
Candidates may place their names on the ballot by
filing petitions with the secretary of the district
not less than sixty days before the biennial election
at which managers of the district are to be elected.
Qualified electors residing within the district or
subdistrict shall be eligible for nomination and to
sign petitions. Petitions shall bear the signatures
of not less than twenty-five qualified electors
residing within the district to which each signer has
added an address, and the date of signing; and the
petition shall state whether the nominee is to be
placed on the ballot as a candidate from the district
at large or from a subdistrict.

3. The petition shall be accompanied by an affidavit
substantially as follows:

STATE OF NORTH DAKOTA)

) ss.

County of ------------)

I, ----------, being duly sworn, depose and say that I
reside in the water resource district of ---------- and
State of North Dakota; that I am a qualified voter
therein; that I am a candidate for nomination to the
office of manager (from subdistrict) (at large) of the
--------- water resource district to be chosen at the
election to be held on the ------- day of October, 19--,
and I do hereby request that my name be printed on the
ballot as provided by law, as a candidate for said office.

Subscribed and sworn to before me this ______ day of ______, 19__.

Notary Public.

North Dakota

4. Each water resource district shall be divided into subdistricts pursuant to this chapter. The number of subdistricts for a district shall equal a number which is one less than the number of managers for the district. The ballots shall list each nomination subdistrict and candidates therefrom and also the at-large candidates. Candidates must be residents of the subdistrict designated on their nomination petition. Qualified electors may each cast a number of votes not larger than the total number of managers to be elect. However, qualified electors shall cast only one vote for each nomination subdistrict and one vote at large when applicable. The candidate receiving the most votes in each listed subdistrict, or the district at large when applicable, shall be elected. Whenever the number of managers to be elected exceeds one-half the number of subdistricts, candidates may petition from the district at large, in which case the ballots shall list such candidates under an appropriate heading.

5. Notice of the biennial district election shall be given by the secretary of the district by publishing, in the official county newspaper in each county which is located wholly or partially in the district, and in newspapers of general circulation in the district, notice that the biennial election will be held on the first Tuesday in October in the water resource...
district. Such notice shall be published for two
consecutive weeks, not more than twenty or less than
ten days before the election.

6. The notice of election shall be in substantially the
following form:

Notice is hereby given that on the first Tuesday,
the ------- day of October, -------, an election
will be held for the purpose of electing managers of
water resource districts, and the polls will be open
at ten a.m. ------- (insert time standard) and will
close at seven p.m. ------- (insert time standard)
of that day.

7. At all elections held in a water resource district,
the polls shall be opened at ten a.m. and shall
remain open until seven p.m. on the day of election.
The water resource board shall designate in the
notice of election the time standard to be used for
polling hours.

8. At least twenty days before the election, the
secretary of the district shall prepare and cause to
be printed, or otherwise uniformly reproduced, an
official ballot containing the names of all persons
who have filed as herein provided. The arrangement
of the names of the candidates on the ballot shall be
determined by lot by the secretary in the presence of
the candidates or their representatives. The ballot
shall be headed "official ballot", shall be
nonpartisan in form, and shall contain the following:

a. The name of the district.
b. The date of the election.
c. The number of persons to be elected to each
   office.
d. A list of nomination subdistricts.
e. The candidates for election from each subdistrict
   and any at-large candidates.
f. Blank spaces below the names listed as candidates for each office in which names not stated on the ballot may be written.

9. At least twenty-one days prior to the first Tuesday in October in each even-numbered year, the water resource board shall designate one or more precincts and polling places for the district election. Such precincts shall be arranged in accordance with subdistricts; however, there may be more than one polling place for each subdistrict. The polling places established in such precincts shall be located as conveniently as possible for the voters in each subdistrict, and a polling place once established by the board shall remain the polling place for the precinct until it is changed by subsequent action of the board. The board shall appoint two persons to act as judges and two persons to act as clerks of the election in each precinct. Before opening the polls, each of the judges and clerks shall take an oath or affirmation that he will perform the duties as judge or clerk, as the case may be, according to law and to the best of his ability. The oath or affirmation may be administered by any officer authorized to administer oaths, or by any of the judges or clerks to the others.

10. Election officials at water resource district elections shall receive the same compensation and expenses as water resource district managers pursuant to section 61-16-1-13.

11. The provisions of sections 16-12-04, 16-12-05, 16-12-11, 16-12-15, 16-13-01, 16-13-04, 16-20-01, 16-20-06, 16-20-07, 16-20-08, 16-20-14, 16-20-15, 16-20-17, 16-20-19, 16-20-22, 16-20-23, and 16-20-24 shall apply to elections held under the provisions of this section. After the votes are canvassed, and
1. within twenty-four hours after the polls are closed, the judges shall make their returns to the secretary of the district. All expenses of elections held by a water resource district shall be paid by the district.

12. In the 1982 election one candidate shall be elected from each subdistrict and one candidate shall be elected at large. The candidates elected from even-numbered subdistricts shall serve for four years and the candidates elected from odd-numbered subdistricts shall serve for two years. In addition, when there are candidates on the ballot from the district at large, one manager shall be elected to serve for four years from this slate of candidates.

13. The board of managers of a water resource district may, upon approval by the commission, change subdistrict boundaries in accordance with this section. Any changes shall be made with due regard to all factors including but not limited to the extent that works of improvement are located in rural areas and the extent to which population and taxable values are located in urban areas and the wishes of the people in the district. Any changes must be proposed to the commission by May first of any election year, and approved by the commission no later than June first of any election year.

61-16.1-11. VACANCY. A vacancy on the board shall exist in the event of the death, resignation or removal from the district of any manager or the elimination or detachment from the district of the territory in which a manager resides. In the event of a vacancy from any of such causes, or otherwise, such vacancy shall be filled by the board of managers. Such appointments shall be in writing and shall be effective until the next election, at which time a successor shall be elected.
and qualified. The written appointment shall be filed with the
secretary of state and the state engineer.

61-16.1-12. REMOVAL OF MANAGER. Members of the board
may be removed from office for the same reasons and in the same
manner as provided by law for the removal of county officers.

61-16.1-13. COMPENSATION AND EXPENSES OF BOARD MEMBERS.
Each member of the water resource board shall receive the same
compensation per day as provided for in section 54-35-10 for
members of the legislative council while performing duties as a
member of the board, and an allowance for meals and lodging
expenses at the same rate and under the same conditions as
provided for state officials and employees. The allowance for
travel expenses shall be at the same rate as provided by
section 11-10-15 and shall be evidenced by a subvoucher or
receipt as provided by section 21-05-01.

61-16.1-14. OATH OF OFFICE - APPOINTMENT OF EMPLOYEES -
MEETINGS. Upon receiving notice of election to serve as a
member of the board of managers of a water resource district,
the manager shall take the oath of office prescribed for civil
officers. The oath shall be filed with the secretary of the
board.

The water resource board shall be officially convened by
the state engineer no later than February 1, 1983. The
managers of a water resource district. shall select a chairman
and vice chairman of the board and shall name a temporary
secretary pending appointment of a permanent secretary. The
board shall appoint a secretary and treasurer and such other
employees deemed necessary for the efficient conduct of the
district's business and shall fix their compensation. The
offices of secretary and treasurer may be held by the same
person. Officers and employees shall hold office during the
pleasure of the board.

The board shall provide an office suitable for its use as
a meeting place and for conducting the affairs of the district.
It shall adopt such rules or regulations for transacting the
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1 business of the district as it may deem necessary, including
2 the time and place of holding regular meetings. Special
3 meetings may be called by the secretary on order of the
4 chairman of the board or upon written request of two members of
5 the board. Notice of a special meeting shall be mailed to each
6 member of the board at least five days before the meeting,
7 provided that a special meeting may be held whenever all
8 members of the board are present or consent thereto in writing.
9
10 61-16.1-15. MINUTES, BOOKS, AND RECORDS. The board
11 shall keep accurate minutes of its meetings and accurate
12 records and books of account, clearly setting out and
13 reflecting the entire operation, management, and business of
14 the district. These books and records shall be kept at the
15 principal office of the district or at such other regularly
16 maintained office or offices of the district as shall be
17 designated by the board, with due regard to the convenience of
18 the district, its customers, and electors. The books and
19 records shall be open to public inspection during reasonable
20 business hours.
21
22 61-16.1-16. BONDS OF TREASURER AND APPOINTIVE OFFICERS.
23 The treasurer of a water resource district shall be bonded in
24 the amount set by the water resource board but the bond shall
25 not be less than one thousand dollars. Other district
26 employees shall be bonded in any amount set by the board.
27 Every officer or employee of whom a bond is required shall be
28 deemed bonded with the state bonding fund upon notice of that
29 appointment given to the state commissioner of insurance by the
30 secretary of the district. Upon notification by the state
31 bonding fund of the premium required, the district treasurer
32 shall remit the same.
33
34 61-16.1-17. DISTRICT BUDGET - TAX LEVY - FINANCING BY
35 SPECIAL ASSESSMENT. The fiscal year of the district shall
36 begin July first and end June thirtieth. The board of managers
37 shall estimate the expenses of the district before July first
38 of each year. Estimates of district expenses may include costs
of rights of way, easements, or other interests in property
deemed necessary for the construction, operation, and
maintenance of any projects. The district budget may also
include an amount necessary for future projects which are part
of a master plan prepared and adopted pursuant to section
61-16.1-25. Upon completion and adoption of a budget covering
necessary expenses, the board of managers shall send a copy of
the budget to the county auditor of each county in the
district. The estimates of necessary expenditures and the tax
levies required therefor, together with a notice that the water
resource board will meet on a specified date for the purpose of
making tax levies as set forth in the estimates, naming the
time and place of holding such meeting, shall be published at
least once a week for two consecutive weeks in the newspaper or
newspapers of general circulation in the district, and in the
official county newspaper of each county located entirely or
partially in the district. The water resource board shall meet
at the time and place designated in the public notice, at which
time any taxpayer may appear in favor of or against any
proposed expenditures or tax levies. When the hearing is
concluded, the board shall adopt such estimate as it finally
determines, but not to exceed the amount specified in the
published estimates. The board shall then, by resolution, levy
and authorize and direct the county auditor or county auditors
of the county or counties wholly or partially within the
district to extend and spread upon the tax roll of the county
or portion of the county in the district a tax of not to exceed
four mills on each dollar of taxable valuation in the same
manner, and with the same effect, as general property taxes are
extended and spread. Funds produced each year by such tax levy
shall be available until expended, and if such tax levy in any
year will not produce sufficient revenue to cover district
expenses, a fund sufficient to pay the same may be accumulated.
The acquisition of rights of way, easements, and the
construction, operation, and maintenance of a project in a
district may, in the discretion of the water resource board, be
financed in whole or in part by special assessments against
property benefited by such project, or from revenues realized
from general tax collections, or from net revenues to be
derived from service charges to be imposed and collected for
the services of the project, or any combination of such
sources.

61-16.1-18. DISTRICT MAY ISSUE WARRANTS IN ANTICIPATION
OF TAXES LEVIED TO PAY CURRENT EXPENSES. After a water
resource district has been established and organized and a
water resource board has been elected, the water resource
board, for the purpose of paying current district expenses
including per diem, compensation, and expenses of managers and
wages or salaries of officers and employees, by resolution, may
authorize and issue district warrants in anticipation of and
pending collection and receipt of taxes levied. The warrants
shall bear the rate of interest set by the board. The district
treasurer shall keep a register in which to enter each warrant
issued, showing the date and amount of each warrant, the date
of payment, and the amount paid in redemption thereof. All
warrants shall be paid in order of their presentation for
payment to the district treasurer. The warrants shall be drawn
to the claimant or bearer in the same manner as a county
warrant, and shall be signed by the chairman of the water
resources board and countersigned by the treasurer of the
district. The aggregate total amount of warrants issued in any
year to pay current district expenses shall not exceed eighty
percent of the district's tax levy for that year.

61-16.1-19. COUNTY TREASURER TO COLLECT AND REMIT TAXES
TO DISTRICT TREASURER - INVESTMENT OF DISTRICT FUNDS -
EXPENDITURE OF DISTRICT FUNDS. The treasurer of each county in
which a water resource district, or a part of such district, is
situated shall collect all district taxes and special
assessments together with any penalty and interest thereon in
the same manner as county taxes are collected, and shall,
within twenty days after the close of each month, pay to the
treasurer of the district those taxes and assessments collected
during the preceding month, and shall notify the secretary of
the district of the payment. The district treasurer shall on
or before the twentieth day of each month report to each member
of the board the amount of money in the district treasury, the
amount of receipts in the preceding month, and items and
amounts of expenditures. At each regular meeting of the board
the treasurer shall submit to the board a statement of the
district's finances.

Each district may invest any money in the district
treasury, including money in any sinking fund established for
the purpose of providing for the payment of the principal or
interest of any contract, bond, or other indebtedness or for
any other purpose, not required for the immediate needs of the
district, in accordance with chapter 21-04.

Funds of the district shall be paid out or expended only
upon the authorization or approval of the water resource board
and by check, draft, warrant, or other instrument in writing,
signed by the treasurer, assistant treasurer, or any other
officer, employee, or agent of the district authorized by the
treasurer to sign on behalf of the treasurer. The
authorization shall be in writing and filed with the secretary
of the district.

61-16.1-20. REVENUE BONDS. Each district shall have the
power and authority to issue revenue bonds, not exceeding an
aggregate total outstanding of ten million dollars, for the
purpose of financing construction of projects and incidental
facilities authorized by this chapter. Issuance of revenue
bonds must be approved by two-thirds of all of the members of
the board of managers of the district. The district shall
pledge sufficient revenue from any revenue-producing facility
constructed with the aid of revenue bonds for the payment of
principal and interest on the bonds, and shall establish rates
for the facilities at a sufficient level to provide for the
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operation of such facilities and for the bond payments. Upon
specific authorization by the legislative assembly and in
accordance with this section, a district may issue revenue
bonds in excess of an aggregate total of ten million dollars.

61-16.1-21. POWERS OF WATER RESOURCE BOARD. Each water
resource board shall have the power and authority to:

1. Sue and be sued in the name of the district.

2. Exercise the power of eminent domain in the manner
provided by title 32 for the purpose of acquiring and
securing any rights, titles, interests, estates, or
easements necessary or proper to carry out the duties
imposed by this chapter, and particularly to acquire
the necessary rights in land for the construction of
dams, flood control projects, and other water
conservation, distribution, and supply works of any
nature and to permit the flooding of lands, and to
secure the right of access to such dams and other
devices and the right of public access to any waters
impounded thereby.

3. Accept funds and property or other assistance,
financial or otherwise, from federal, state, and
other public or private sources for the purposes of
aiding the construction or maintenance of water
conservation, distribution, and flood control
projects; and cooperate and contract with the state
or federal government, or any department or agency
thereof, in furnishing assurances and meeting local
cooperation requirements of any project involving
control, conservation, distribution, and use of
water.

4. Procure the services of engineers and other technical
experts, and employ an attorney or attorneys to
assist, advise, and act for it in its proceedings.

5. Plan, locate, relocate, construct, reconstruct,
modify, maintain, repair, and control all dams and
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1. Water conservation and management devices of every
   nature and water channels, and to control and
   regulate the same and all reservoirs, artificial
   lakes, and other water storage devices within the
district.

6. Maintain and control the water levels and the flow of
   water in the bodies of water and streams involved in
   water conservation and flood control projects within
   the district, and regulate streams, channels, or
   watercourses and the flow of water therein by
   changing, widening, deepening, or straightening the
   same, or otherwise improving the use and capacity
   thereof.

7. Regulate and control water for the prevention of
   floods and flood damages by deepening, widening,
   straightening, or diking the channels or floodplains
   of any stream or watercourse within the district, and
   construct reservoirs or other structures to impound
   and regulate such waters.

8. Make rules and regulations concerning the management,
   control, regulation, and conservation of waters and
   prevent the pollution, contamination, or other misuse
   of the water resources, streams, or bodies of water
   included within the district.

9. Do all things reasonably necessary and proper to
   preserve the benefits to be derived from the
   conservation, control, and regulation of the water
   resources of this state.

10. Construct, operate, and maintain recreational
    facilities, including beaches, swimming areas, boat
    docking and landing facilities, toilets, wells,
    picnic tables, trash receptacles, and parking areas,
    and to establish and enforce rules and regulations
    for the use thereof.
11. Have, in addition to any powers provided in this chapter, the authority to construct an assessment drain in accordance with the procedures and provisions of chapter 61-21.

12. Acquire by lease, purchase, gift, condemnation, or other lawful means and to hold in its corporate name for its use and control both real and personal property and easements and rights of way within or without the limits of the district for all purposes authorized by law or necessary to the exercise of any other stated power.

13. Convey, sell, dispose of, or lease personal and real property of the district as provided by this chapter.

14. Authorize and issue warrants to finance construction of water conservation and flood control projects, assess benefited property for part or all of the cost of such projects, and require appropriations and tax levies to maintain sinking funds for construction warrants on a cash basis at all times.

15. Borrow money within the limitations imposed by this chapter for projects herein authorized and pledge security for the repayment of such loans.

16. Order or initiate appropriate legal action to compel the entity responsible for the maintenance and repair of any bridge or culvert to remove from under, within, and around such bridge or culvert all dirt, rocks, weeds, brush, shrubbery, other debris and any artificial block which hinders or decreases the flow of water through such bridge or culvert.

17. Order or initiate appropriate legal action to compel the cessation of the destruction of native woodland bordering within two hundred feet [60.96 meters] of that portion of a riverbank subject to overflow flooding that will cause extensive property damage, or in the alternative, order, that, if such
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destruction is permitted, the party or parties responsible for the destruction must, when the board has determined that such destruction will cause excessive property damage from overflow flooding due to the erosion or blocking of the river channel, plant a shelterbelt which meets the specifications of the board. In the event the native woodland within such area has already been destroyed, the board may, in its discretion, order the planting of a shelterbelt which, in the judgment of the board, will curtail the erosion or blocking of such river channel where overflow flooding has caused extensive property damage. For purposes of this subsection, the words "riverbank" and "river channel" relate to rivers as defined in the United States geological survey base map of North Dakota, edition of 1963. The provisions of this subsection shall not be construed to limit, impair, or abrogate the rights, powers, duties, or functions of any federal, state, or local entity to construct and maintain any flood control, irrigation, recreational, or municipal or industrial water supply project.

18. Petition any zoning authority established pursuant to chapters 11-33, 11-35, or 40-47 or section 58-03-13 to assume jurisdiction over a floodplain for zoning purposes when such zoning is required to regulate and enforce the placement erection, construction, reconstruction, repair, and use of buildings and structures to protect and promote the health, safety, and general welfare of the public within a floodplain area. In the event such zoning authority fails to act or does not exist, the board may request the state water commission to assist it in a study to determine and delineate the floodplain area. Upon completion of such study, the board shall make
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suitable recommendations for the establishment of a
floodplain zone to all zoning authorities and the
governing bodies of all political subdivisions having
jurisdiction within the floodplain area.

19. Plan, locate, relocate, construct, reconstruct,
modify, extend, improve, operate, maintain, and
repair sanitary and storm sewer systems, or
combinations thereof, including sewage and water
treatment plants, and regulate the quantity of sewage
effluent discharged from municipal lagoons; and
contract with the United States government, or any
department or agency thereof, or any private or
public corporation, the government of this state, or
any department, agency, or political subdivision
thereof, or any municipality or person with respect
to any such systems.

20. Develop water supply systems, store and transport
water, and provide, contract for, and furnish water
service for domestic, municipal, and rural water
purposes, irrigation, milling, manufacturing, mining,
metallurgical, and any and all other beneficial uses,
and fix the terms and rates therefor. Each district
may acquire, construct, operate, and maintain dams,
reservoirs, ground water storage areas, canals,
conduits, pipelines, tunnels, and any and all works,
facilities, improvements, and property necessary
therefor.

21. Require the state highway department, railroads,
counties, and townships in the district, to
coordinate proposals for installation, modification,
or construction of culverts and bridges with the
district, in an effort to achieve appropriate sizing
and maximum consistency of road openings, and to
consider the possibility of incorporating appropriate
water control structures into such road openings.
61-16.1-22. RESPONSIBILITIES AND DUTIES OF WATER RESOURCE BOARD. Each water resource board shall have the following responsibilities and mandatory duties:

1. To meet jointly with other water resource boards within a common river basin at least twice each year at such times and places as may be mutually agreed upon for the purpose of reviewing and coordinating efforts for the maximum benefit of the entire river basin.

2. To cooperate with other water resource boards of a common river basin and provide mutual assistance to the maximum extent possible.

3. Upon order of the state water commission, to enter into an agreement with all water resource districts of a river basin to address collectively and attempt to resolve significant water management problems of the river basin. If the districts of a river basin are not able to agree to the provisions of a joint exercise of powers agreement in accordance with section 61-16.1-23, the state water commission shall establish the terms of the agreement.

4. To encourage all landowners to retain water on the land to the maximum extent possible in accordance with sound water management policies, and to carry out to the maximum extent possible the water management policy that upstream landowners who have artificially altered the hydrologic scheme must share with downstream landowners the responsibility of providing for proper management and control of surface waters.

5. In the planning of any surface water project which will have an impact downstream in the water resource district or another water resource district, to address and consider fully such impacts. A determination of whether to proceed with the
construction of any such project shall be based on
the following principles:
a. Reasonable necessity of the project.
b. Reasonable care to be taken to avoid unnecessary
injury by fully considering all alternatives.
c. Consideration of whether the utility or benefit
accruing from the project reasonably outweighs
the adverse impacts resulting from the project.

6. To require that appropriate easements be obtained in
accordance with applicable state and federal law when
projects will cause an adverse impact to lands of
other landowners.

61-16.1-23. JOINT EXERCISE OF POWERS.
1. Two or more districts may, by agreement, jointly or
cooperatively exercise any power which is authorized
a board by title 61. The agreement shall state its
purpose and the powers to be exercised, and shall
provide for the method by which the power or powers
shall be exercised. When the agreement provides for
the use of a joint board, the joint board shall be
representative of the boards which are parties to the
agreement. Notwithstanding other provisions of law,
the agreement may specify the number, composition,
terms, or qualifications of the members of the joint
board.

2. The districts which are parties to such an agreement
may provide for disbursements from their individual
budgets to carry out the purpose of the agreement.
In addition, a joint board established pursuant to
this section may adopt, by resolution, on or before
July first of each year, a budget showing estimated
expenses for the ensuing fiscal year and the proposed
contributions of each member district as determined
by the agreement. The boards of the member districts
then shall levy by resolution, an ad valorem tax not
to exceed two mills upon the real property within each district. The levy may be in excess of any other levy authorized for a district.

3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.

4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.

5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.

6. Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
7. This section does not dispense with procedural
requirements of any other statute providing for the
joint or cooperative exercise of any governmental
power.

61-16.1-24. SCOPE OF BOARD'S EXTRATERRITORIAL
CONTRACTUAL AUTHORITY - BOARD MAY ACQUIRE PROPERTY IN ADJOINING
STATES AND PROVINCES. A water resource board shall have the
right, power, and authority to enter into contracts or other
arrangements for water conservation, water supply, flood
control, or other authorized projects with the United States
government or any department thereof, with the Canadian
government or any department thereof or any of its provinces or
municipalities, with persons, railroads, or other corporations,
with public corporations, and state governments of this or
other states, with drainage, water resource, conservation,
conservancy, or improvement districts, or other such districts
in this or other states. Such contracts or arrangements can
provide for cooperation or assistance in planning,
constructing, maintaining, and operating such projects and in
making investigations and reports thereon, and for the carrying
out of any other provision of this chapter. A water resource
board may purchase, lease, or acquire land or other property in
adjoining states or provinces to secure outlets to construct
and maintain dikes or dams, or for other purposes authorized by
this chapter and may let contracts or spend money for securing
such outlets or works in adjoining states or provinces. No
water resource board of any water resource district shall have
the right, power, or authority to connect boundary waters
having different natural outlets by artificial means so that
the waters of one may be discharged into the other.

61-16.1-25. MASTER PLANS.
1. Each water resource district shall prepare and adopt
a master plan to include a statement of goals and
objectives for each of the various water management
activities in the district, such as drainage, flood
control, water supply, and recreation. The master plan for each specific water management activity shall be reviewed and updated as often as deemed necessary by the district. A copy of the master plan as adopted and all revisions and updates shall be filed with the commission.

2. Each district shall also prepare and adopt a two-year priorities schedule which shall summarize planned district projects and financial needs of the district for at least the next two years. A copy of the priorities schedule shall be filed with the commission on or before May first of each even-numbered year.

3. The commission shall develop and make available to the districts guidelines regarding the format and general content of master plans, which shall be utilized by each district. The commission shall provide such assistance, within appropriate budget limitations, as may be necessary to help districts develop master plans and priority schedules.

4. The district shall give notice and hold public hearings on all proposed master plans. All comments on plans shall be reviewed by the district and alterations of the plans shall be made as are appropriate. Plans shall then be submitted to the commission by the district for review and comment. Failure to reply within thirty days shall be conclusive that the plans have been endorsed by the commission.

5. No state funds shall be allocated or disbursed to a district, after July 1, 1985, unless that district has submitted a master plan pursuant to this section for the specific water management activity for which state funds were requested, and until the commission has determined that such funds are for projects and
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programs which are related to that water management activity and which are in conformance with the plans of the commission and the district.

61-16.1-26. PERMIT TO CONSTRUCT OR MODIFY DAM, DIKE, OR OTHER DEVICE REQUIRED - PENALTY. No dikes, dams, or other devices for water conservation, flood control regulation, watershed improvement, or storage of water which are capable of retaining, obstructing, or diverting more than twelve and one-half acre-feet [15418.52 cubic meters] of water shall be constructed within any water resource district except in accordance with the provisions of this chapter. An application for the construction of any dike, dam, or other device, along with complete plans and specifications, shall be presented first to the state engineer. After receipt, the state engineer shall consider the application in such detail as he deems necessary and proper. The state engineer shall refuse to allow the construction of any unsafe or improper dike, dam, or other device which would interfere with the orderly control of the water resources of the district, or may order such changes, conditions, or modifications as in the judgment of the state engineer may be necessary for safety or the protection of property. Within forty-five days after receipt of the application, except in unique or complex situations, the state engineer shall complete his review of the application, and if he approves it, shall forward the application, along with any changes, conditions, or modifications, to the water resource board of the district within which the contemplated project is located. The board thereupon shall consider, within forty-five days, the application, and any changes, conditions, or modifications of the state engineer, and if the same shall meet with the board's approval, the board shall forward the approved application to the applicant, and shall send a certification of its action to the state engineer. Any person aggrieved by any ruling of the state engineer under this section shall have the right to a full hearing before the state engineer and a full
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consideration of all evidence available before a final order of
the state engineer shall be entered. Any person constructing a
dam, dike, or other device, which is capable of retaining
twelve and one-half acre-feet (15418.52 cubic meters) of water,
without first securing a permit to do so, as required by this
section, shall be liable for all damages proximately caused by
such dam, dike, or other device, and shall be guilty of a class
B misdemeanor.

61-16.1-27. COMMISSION, STATE ENGINEER, AND WATER
RESOURCE BOARD SHALL ENCOURAGE BOTH STRUCTURAL AND
NONSTRUCTURAL ALTERNATIVES. The state water commission, state
engineer, and the appropriate water resource board shall
encourage both structural and nonstructural solutions to water
management problems within the district by federal and state
agencies, private individuals, and public and private
corporations, and shall lend their aid, counsel, and assistance
to any such solutions. All structural alternatives, including
dams, dikes, drains, and other works, whether constructed by
public authorities or private persons, unless specifically
exempted therefrom, shall be subject to all the provisions of
this chapter.

61-16.1-28. DAMS OR OTHER DEVICES CONSTRUCTED WITHIN A
DISTRICT SHALL COME UNDER CONTROL OF A WATER RESOURCE BOARD.
All dams, dikes, and other water conservation and flood control
works or devices constructed within any district, unless
specifically exempted therefrom, shall, without affecting the
state water commission's or the state engineer's authority
relative to such works, automatically come under the
jurisdiction of the water resource board for the district
within which the dam, dike, work, or devices exists or is to be
constructed. No changes or modification of any existing dams,
dikes, or other works or devices shall be made without
complying fully with the provisions of this chapter.

61-16.1-29. WHEN DAMS CONSTRUCTED BY FEDERAL AGENCY
UNDER CONTROL OF WATER RESOURCE DISTRICT. Any dam, dike, or
other water control device or flood control project constructed
by or with the assistance of any federal agency but which is
not maintained or operated by any federal agency shall become
the responsibility of the water resource district where it is
located. The water resource district may take any action
concerning this dam, dike, or other water control device it
deems feasible or necessary.

61-16.1-30. CONTRACTS FOR CONSTRUCTION OR MAINTENANCE OF
PROJECT. If the cost of construction or maintenance of a
project does not exceed fifteen thousand dollars, such work may
be done on a day work basis or a contract may be let without
being advertised. In cases where the cost of such construction
or maintenance exceeds fifteen thousand dollars, the lowest and
best bid shall be accepted. The water resource board shall
give at least ten days' notice of the time and place where
contract will be let. The notice shall be published at least
once in a newspaper of general circulation in the district in
which the work is to be carried on and shall be mailed to any
prospective bidders known to the water resource board.

Any person receiving a contract for construction or
maintenance of a project shall give a performance bond in an
amount set by the water resource board, conditioned upon the
proper performance of the contract within the time specified by
such contract. The board shall reserve the right to reject any
or all bids and may postpone the letting of contracts from time
to time or to such other time and place as the board may
publicly announce. Any contracts not let at the original
contract letting may be let by the board at a later time after
notice and in accordance with the provisions of this section.
The competitive bid requirement of this section shall be
waived, upon the determination of the water resource board that
an emergency situation exists requiring the prompt repair of a
project, and a contract may be made for the prompt repair of
the project without seeking bids.
61-16.1-31. FINANCING PROJECT THROUGH REVENUE BONDS.

GENERAL TAXES, OR SPECIAL ASSESSMENTS - APPORTIONMENT OF BENEFITS. A water resource board shall have the authority, either upon request or by its own motion, to acquire needed interest in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project through issuance of improvement warrants or with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a combination of general ad valorem tax, special assessments, and revenue bonds. Whenever a water resource board decides to acquire property or interests in property to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, such assessments shall be apportioned to and spread upon lands or premises benefited by the project in proportion to and in accordance with benefits accruing thereto. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and collection of special assessments which any lot, piece, or parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, or township which is benefited thereby. In determining assessments the water resource board shall carry out to the maximum extent possible the water management policy of this chapter that upstream landowners must share with downstream landowners the responsibility to provide for the proper management of surface waters.

61-16.1-32. FINANCING OF SPECIAL IMPROVEMENTS - PROCEDURE. When it is proposed to finance in whole or in part the construction of a project with funds raised through the collection of special assessments levied against lands and premises benefited by construction and maintenance of such project, the board shall examine the proposed project, and if in its opinion further proceedings are warranted, it shall adopt a resolution and declare that it is necessary to
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1 construct and maintain the project. The resolution shall
2 briefly state the nature and purpose of the proposed project,
3 and shall designate a registered land surveyor or engineer to
4 assist the board. For the purpose of making examinations or
5 surveys, the board or its employees, after written notice to
6 each landowner, may enter upon any land on which the proposed
7 project is located or any other lands necessary to gain access.
8 The surveyor or engineer shall prepare profiles, plans, and
9 specifications of the proposed project and estimates of the
10 total cost thereof. The estimate of costs prepared by the
11 surveyor or engineer shall include acquisition of right of way,
12 and shall be in sufficient detail to allow the board to
13 determine the probable share of the total costs that will be
14 assessed against each of the affected landowners in the
15 proposed project assessment district.
16 61-16.1-33. HEARING - NOTICE - CONTENTS. Upon the
17 filing of the surveyor's or engineer's report provided for in
18 section 61-16.1-32, and after satisfying the requirements of
19 section 61-16.1-36, the board shall fix a date and place for
20 public hearing on the proposed project. Such place of hearing
21 shall be in the vicinity of the proposed project and shall be
22 convenient and accessible for the majority of the landowners
23 subject to assessment for such project or whose property shall
24 be subject to condemnation for the proposed project. The board
25 shall cause a complete list of the benefits and assessments to
26 be made, setting forth each county, township, or city assessed
27 in its corporate capacity as well as each lot, piece, or parcel
28 of land assessed, the amount each is benefited by the
29 improvement and the amount assessed against each. At least ten
30 days before the hearing, the board shall file with the county
31 auditor of each county or counties in which the project is or
32 will be located the list showing the percentage assessment
33 against each parcel of land benefited by the proposed project
34 and the approximate assessment in terms of money apportioned
35 thereto. Notice of such filing shall be included in the notice
of hearing. Notices of the hearing shall contain a copy of the
resolution of the board as well as the time and place where the
board will conduct the hearing. The notice of hearing shall
specify the general nature of the project as finally determined
by the engineer and the board. The notice of hearing shall
also specify when and where protests against such proposed
project shall be filed and an assessment list showing the
percentage assessment against each parcel of land benefited by
the proposed project and the approximate assessment in terms of
money apportioned thereto. The board shall cause the notice of
hearing to be published once a week for two consecutive weeks
in the newspaper or newspapers of general circulation in the
area in which the affected landowners reside. The date set for
such hearing shall not be less than twenty days after the first
publication of the notice. A record of the hearing shall be
made by the board, including a list of affected landowners
present in person or by agent, and such record shall be
preserved in the minutes of the meeting. Affected landowners
shall be informed at the hearing of the probable total cost of
the project and their individual share of such cost and the
portion of their property, if any, to be condemned for such
project.

61-16.1-34. PROTEST. At the hearing, the affected
landowners shall also be informed when and where protests
against such proposed project may be filed. Affected
landowners shall then have thirty days after the date of the
hearing to file written protests with the secretary of the
board, protesting the project. Any form of written objection
which sufficiently indicates the intention of the writer shall
be sufficient. Once the deadline for filing protests against
the proposed project has been reached, no more protests may be
filed and no person may withdraw his or her name from the list
of those filing protests against the proposed project. Any
withdrawal of a protest against the proposed project before
that time must be in writing. When the protests of affected
landowners have been filed and the deadline for filing protests has passed, the board shall immediately determine the sufficiency of the protests. If the board finds that fifty percent or more of the total votes of affected landowners, as determined by section 61-16.1-35, have protested against the proposed project, then the protests shall be a bar against proceeding further with the project. If the protests are found to be insufficient in number or invalid, the board shall issue an order establishing the proposed project and may proceed, after complying with the requirements of sections 61-16.1-36 and 61-16.1-37, to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in title 40 for the construction of sewers within municipalities. Upon making an order establishing or denying establishment of a project, the board shall publish notice of the order in a newspaper of general circulation in the area affected. Any right of appeal shall begin to run on the date of publication of the notice.

61-16.1-35. VOTING RIGHT OR POWERS OF LANDOWNERS. In order that there may be a fair relation between the amount of liability for assessments and the power of objecting to the establishment of a proposed project, the voting rights of affected landowners on the question of establishing the project shall be as provided in this section. The landowner or landowners of tracts of land affected by the project shall have one vote for each dollar of assessment that his land is subject to or one vote for each dollar of the assessed valuation of land condemned for the project, as determined in accordance with title 57. It is the intent of this section to allow one vote for each dollar of assessment, regardless of the number of owners of such tract of land. Where more than one owner of such land exists, the votes shall be prorated among them in accordance with each owner's property interest. A written power of attorney shall authorize an agent to protest a project on behalf of any affected landowner or landowners.
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61-16.1-36. ASSESSMENT OF COST OF PROJECT. Whenever the water resource board proposes to make any special assessment under the provisions of this chapter, the board, prior to the hearing required under section 61-16.1-33, shall inspect any and all lots and parcels of land, which may be subject to assessment and shall determine from the inspection the particular lots and parcels of lands which, in the opinion of the board, will be especially benefited by the construction of the work for which the assessment is made and shall assess the proportion of the total cost of acquiring right of way and constructing and maintaining such improvement in accordance with benefits received but not exceeding such benefits, against:

1. Any county, township, or city, in its corporate capacity, which may be benefited directly or indirectly thereby.

2. Any lot, piece, or parcel of land which is directly benefited by such improvement.

In determining benefits the board shall consider, among other factors, property values, degree of improvement of properties, productivity and the water management policy as expressed in 61-16.1-31. Property belonging to the United States shall be exempt from such assessment, unless the United States has provided for the payment of any assessment which may be levied against its property for benefits received. Benefited property belonging to counties, cities, school districts, park districts, and townships shall not be exempt from such assessment and political subdivisions whose property is so assessed shall provide for the payment of such assessments, installments thereof, and interest thereon, by the levy of taxes according to law. Any county, township, or city assessed in its corporate capacity for benefits received shall provide for the payment of such assessments, installments thereof and interest thereon by levy of a general property tax against all the taxable property therein in accordance with law, and no
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1 land situated within such political subdivision which is
2 subject to such tax shall be assessed separately by the
3 district board. No tax limitation provided by an statute of
4 this state shall apply to tax levies made by any such political
5 subdivision for the purpose of paying any special assessments
6 made in accordance with the provisions of this chapter. There
7 shall be attached to the list of assessments a certificate
8 signed by a majority of the members of the board certifying
9 that the same is a true and correct assessment of the benefit
10 therein described to the best of their judgment and stating the
11 several items of expense included in the assessment.

61-16.1-37. ASSESSMENT LIST TO BE PUBLISHED - NOTICE OF
HEARING - ALTERATION OF ASSESSMENTS - CONFIRMATION OF
ASSESSMENT LIST - FILING. After entering an order establishing
the project, the board shall cause the assessment list to be
published once each week for two successive weeks in the
newspaper or newspapers of general circulation in the district
together with a notice of the time when, and place where, the
board will meet to hear objections to any assessment by any
interested party, or an agent or attorney for that party. The
date set for the hearing shall be not less than twenty days
after the first publication of the notice. At the hearing, the
board may make such alterations in the assessments as in its
opinion may be just and necessary to correct any error in the
assessment but must make the aggregate of all assessments equal
to the total amount required to pay the entire cost of the work
for which such assessments are made, or the part of such cost
to be paid by special assessment. No assessment shall exceed
the benefit as determined by the board to the parcel of land or
political subdivision assessed. The board shall then confirm
the assessment list and the secretary shall attach to the list
a certificate that the same is correct as confirmed by the
board and thereupon shall file the list in the office of the
secretary.
61-16.1-38. APPEAL TO STATE ENGINEER. After the hearing provided for in section 61-16.1-37, landowners subject to assessment or whose property is subject to condemnation for the construction of the proposed project may appeal pursuant to this section. Affected landowners having not less than twenty-five percent of the possible votes, as determined by section 61-16.1-35, who believe that the assessment had not been fairly or equitably made, or that the project is not properly located or designed, may appeal to the state engineer by petition, within ten days after the hearing on assessments, to make a review of the assessments and to examine the location and design of the proposed project. Upon receipt of such petition the state engineer shall examine the lands assessed and the location and design of the proposed project, and if it appears that the assessments have not been made equitably, he may proceed to correct the same, and his correction and adjustment of said assessment shall be final. Should it appear that, in the judgment of the state engineer, the project has been improperly located or designed, he may order a relocation and redesign. Such relocation and redesign shall be followed in the construction of the proposed project. Any landowner who claims that he will receive no benefit at all from the construction of a new project may appeal the question of whether there is any benefit to the state engineer. The state engineer shall not determine the specific amount of benefit upon an appeal by an individual landowner, but shall only determine if there is any benefit to the landowner, and the determination of the state engineer upon such question shall be final.

61-16.1-39. WHEN ASSESSMENTS MAY BE MADE. After the requirements of this chapter have been satisfied and a contract and bond for any work for which a special assessment is to be levied have been approved by the board, the board may direct special assessments to be levied for the payment of appropriate costs, and the secretary shall certify to the board the items
of total cost to be paid by special assessments so far as they have been ascertained. The certificate shall include the estimated construction cost under the terms of any contract, a reasonable allowance for cost of extra work which may be authorized under the plans and specifications, acquisition of right of way, engineering, fiscal agents' and attorneys' fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices, and printing of improvement warrants, cost necessarily paid for damages caused by such improvement, interest during the construction period, and all expenses incurred in making the improvement and levy of assessments.

In no event shall any contract or contracts be awarded which exceed, by twenty percent or more, the estimated cost of the project as presented to and approved by the affected landowners.

61-16.1-40. LIABILITY FOR DEFICIENCIES. During the month of June of each year the board shall prepare a complete statement of the condition of the finances of each project. At its July meeting next following the filing of each statement of the financial condition of a project, the water resource board shall examine the statement and determine whether or not the project has defaulted or will default on its financial obligations. If it appears to a water resource board that any project does not have moneys and assessments receivable equal to one hundred percent of its obligations coming due within the following thirteen months, the board shall pay from the general fund into the sinking fund for project warrants or bonds or shall proceed to levy a general property tax, the proceeds of which, together with project moneys on hand and probable future yield of project assessments will amount to one hundred percent of the obligations of the project becoming due during the following thirteen months. Such tax or payments shall be appropriated to the sinking fund for the project warrants or bonds, and certificates of indebtedness may be issued against...
the same as levied. On redemption of all warrants or bonds
against any sinking fund, or upon accumulation of moneys in
such fund sufficient to redeem all outstanding warrants or
bonds, all surplus moneys in such fund shall be payable to the
general fund of the district.

No tax limitation provided by any statute of this state
shall apply to tax levies made by any district pursuant to this
section.

61-16.1-41. REASSESSMENT OF BENEFITS. The water
resource board may at any time, or upon petition of any
affected landowner after a project has been in existence for at
least one year shall, hold a hearing for the purpose of
determining the benefits of such project to each tract of land
affected. At least ten days' notice of the hearing shall be
given by publication in the newspaper or newspapers having
general circulation in the district and by mailing notice
thereof by ordinary mail to each owner of land affected by the
project as determined by the records of the register of deeds
or county treasurer. The provisions of this chapter governing
the original determination of benefits and assessment of costs
shall apply to any reassessment of benefits carried out under
this section. The board shall not be forced to make such
reassessment more than once every ten years, nor shall any
assessment or balance thereof supporting a project fund be
reduced or impaired by reassessment or otherwise so long as
bonds payable out of such fund remain unpaid and moneys are not
available in such fund to pay all such bonds in full, with
interest. Costs of maintenance shall be prorated in accordance
with any plan for reassessment of benefits that has been
adopted.

61-16.1-42. CORRECTION OF ERRORS AND MISTAKES IN SPECIAL
ASSESSMENTS - REGULATIONS GOVERNING. If mathematical errors or
other such mistakes occur in making any assessment resulting in
a deficiency in that assessment, the board shall cause
additional assessments to be made in a manner substantially
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complying with chapter 40-26 as it relates to special
assessments.

61-16.1-43. CERTIFICATION OF ASSESSMENTS TO COUNTY
AUDITOR. When a water resource board, by resolution, has
caused special assessments to be levied to cover the cost of
constructing a project, the board shall determine the rate of
interest unpaid special assessments shall bear, which rate
shall not be less than the warrant rate. Interest on unpaid
special assessments shall commence on the date the assessments
are finally confirmed by the board. Special assessments may be
certified and made payable in equal annual installments, the
last of which shall be due and payable not more than thirty
years after date of the warrants to be paid. The secretary of
the district shall certify to the county auditor of the county
in which the district is situated, or if the district embraces
more than one county, to the county auditor of each county in
which district lands subject to such special assessments are
situated, the total amount levied against such lands in that
county and the proportion or percentage of such amount assessed
against each piece, parcel, lot, or tract of land. The
secretary of the district shall also file with the county
auditor of each county in which district lands lie a statement
showing the cost of the project, the part thereof, if any,
which will be paid out of the general taxes, and the part to be
financed by special assessments. Funds needed to pay the cost
of maintaining a project may be raised in the same manner as
funds were raised to meet construction costs. If the project
was financed in whole or in part through the use of special
assessments, the water resource board shall prorate the costs
of maintaining projects in the same proportion as were the
original costs of construction or, in the event a reassessment
of benefits has been adopted, the costs shall be prorated in
accordance with the reassessment of benefits as authorized by
section 61-16.1-41.

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61-16.1-44. EXTENSION OF SPECIAL ASSESSMENTS ON TAX LISTS - COLLECTION - PAYMENT TO WATER RESOURCE DISTRICT. The county auditor of each county shall extend the special assessments certified to the county auditor on the tax list of the district for the current year and such assessments, with interest and penalties, if any, shall be collected by the county treasurer as general taxes are collected and shall be paid to the treasurer of the district.

61-16.1-45. LIEN OF SPECIAL ASSESSMENT. A special assessment imposed by a water resource district, together with interest and penalties which accrue thereon, shall become a lien upon the property on which the assessment is levied from the time the assessment list is approved by the water resource board until the assessment is fully paid. Such liens shall have precedence over all other liens except general tax liens and shall not be divested by any judicial sale. No mistake in the description of the property covered by the special assessment lien or in the name of the owner of such property shall defeat the lien if the assessed property can be identified by the description in the assessment list. This chapter shall be considered notice to all subsequent encumbrancers of the priority of special assessments imposed under this chapter.

61-16.1-46. SALE OF PROPERTY WHEN GENERAL AND SPECIAL ASSESSMENT TAXES ARE DELINQUENT. Special assessments imposed under this charter shall become due and delinquent and shall be subject to penalties and nonpayment at the same date and rates as first installments of real estate taxes. Real property shall be sold to enforce the collection of special assessments or installments of special assessments which have become delinquent at the same time and in the same manner as provided in title 57. The sale shall be made by the same officer making the sale as in the case of the sale of real property for general taxes. Delinquent general taxes and delinquent special assessments, or installments thereof, shall be advertised and
sold together in one sum and one certificate shall be issued therefor.

If real estate is sold for both delinquent general taxes and delinquent special assessments or installments of special assessments and there shall be no bidders, the county auditor shall strike off the parcel of land to the county and one certificate of sale shall cover both general taxes and special assessments which are delinquent.

If there is no delinquent general property tax against a tract or parcel of land and it is sold for special assessments alone, the certificate of tax sale shall state that the sale was for special assessments and, if there is no private bidder, the tax sale certificate and tax deed in such case shall be issued to the district in the usual course of procedure.

61-16.1-47. COLLECTION OF TAX OR ASSESSMENT LEVIED NOT TO BE ENJOINED OR DECLARED VOID - EXCEPTIONS. The collection of any tax or assessment levied or ordered to be levied to pay for the location and construction of any project under the provisions of this chapter shall not be enjoined perpetually or absolutely declared void by reason of any of the following:

1. Any error of any officer or board in the location and establishment thereof.
2. Any error or informality appearing in the record of the proceedings by which any project was established.
3. A lack of any proper conveyance or condemnation of the right of way.

The court in which any proceeding is brought to reverse or declare void the proceedings by which any project has been established, or to enjoin the tax levied to pay therefor, on application of either party, shall order examination of the premises, or survey of the same, or both, as may be deemed necessary. The court, on a final hearing, shall enter an order which is just and equitable, and may order the tax or any part thereof to remain on the tax lists for collection, or if the tax were paid under protest, may order, if justice requires,
the whole or any part thereof to be refunded. The costs of
such proceedings shall be apportioned among the parties as
justice may require.
61-16.1-48. WATER RESOURCE BOARD MAY APPORTION
ASSESSMENTS FOR BENEFITS OF A PROJECT AGAINST A COUNTY OR CITY
OR ANY TRACT OF LAND BENEFITED. Whenever a water resource
board discovers or ascertains that the county, a township, or
city therein, or that any tract, parcel, or piece of land is
being benefited by a project and that the county or such
township, municipality, tract, piece, or parcel of land was not
included in the project area assessed for the cost of
construction and maintenance of the project when established,
the board shall commence proceedings for reassessment of lands
originally assessed for the cost of establishing and
constructing such project and shall apportion and assess the
part of the balance remaining unpaid, if any, of the cost of
such project, and the expense of maintenance, which such
county, township, or city and each tract of land found
benefited thereby should bear.
Before making such reassessment or reapporrtionment of
benefits, the board shall hold a hearing for the purpose of
determining the benefits of the project to the county, such
township, or city and to each tract, piece or parcel of land
being benefited. At least ten days' notice of the hearing
shall be given by publication in the newspaper or newspapers
having general circulation in the county and by mailing notice
thereof to each owner of land assessed for the cost of
construction and maintenance when the project was established,
and by mailing such notice to the governing body of the county,
township, municipality and to the owner, as determined by the
records in the office of the register of deeds or county
treasurer of each tract, piece, or parcel of land found to be
benefited since the establishment of the project. The
provisions of this chapter governing the original determination
of benefits and assessment of costs shall apply to the
reassessment and assessment of benefits carried out under the
provisions of this section.

61-16.1-49. WARRANTS - WHEN PAYABLE - AMOUNTS - INTEREST
- INTEREST COUPONS. A water resource district may, at any time
after entering into a contract for a project to be financed in
whole or in part by special assessments, issue temporary and
definitive warrants on the project fund, created for that
purpose, in the manner and subject to the limitations
prescribed in section 40-24-19. Where the warrants are issued
to finance a sewer or water project, the net revenues derived
from the imposition of service charges to be imposed and
collected with respect thereto as provided in section 40-22-16
may be pledged to payment of those warrants, except that the
first maturity date of any such warrant shall not be less than
two years from the date of issuance. Warrants issued under
this section shall be in such amounts as in the judgment of the
district's board of commissioners will be necessary for the
project. The warrants shall bear interest at a rate to be
determined by the board, payable annually or semiannually.
Coupons evidencing the interest for each year or half year, as
the case may be, may be attached to the warrants. The warrants
shall state upon their face the purpose for which they are
issued and the project fund from which they are payable and
shall be signed by the chairman of the water resource board and
countersigned by the secretary of the district. The warrants
shall be payable serially in such amounts as the board
determines, extending over a period of not more than thirty
years.

61-16.1-50. WARRANTS MAY BE USED IN MAKING PAYMENTS ON
CONTRACT - WARRANTS PAYABLE OUT OF FUND ON WHICH DRAWN - MAY BE
USED TO PAY SPECIAL ASSESSMENTS. Improvement warrants may be
used in making payments on contracts for construction of the
project for which the special assessment fund was created, or
may be sold for cash at not less than ninety-eight percent of
par and accrued interest, and the proceeds thereof, less
accrued interest, shall be credited to the construction account of such fund and shall be used exclusively to pay such contracts and construction costs. Any balance remaining in any construction account after completion of a project shall be transferred to the sinking fund account of the assessment fund.

The treasurer of the district shall pay special assessment warrants and any interest coupons attached thereto as they mature and are presented for payment out of the fund on which they are drawn and shall cancel the warrants and any coupons when paid.

61-16.1-51. REFUNDING SPECIAL ASSESSMENT WARRANTS - PURPOSES FOR WHICH SUCH WARRANTS MAY BE ISSUED - PAYMENT OF WARRANTS. Any district having outstanding special assessment warrants, payable in whole or in part out of collections from special assessments, which are past due or which are redeemable, either at the option of the district or with the consent of the warrant holders, may issue refunding special assessment warrants or bonds if there is not sufficient money in the project fund against which such warrants are drawn to pay the same. The issuance of refunding warrants or bonds shall be authorized by resolution of the water resource board.

The resolution shall describe the warrants to be refunded and the amount and maturity thereof. Refunding warrants may be issued for any of the following purposes:

1. Extend the maturities of warrants payable in whole or in part by special assessments.

2. Reduce the interest on such warrants.

3. Equalize the general property tax which the district may be, or may become, obligated to levy in order to cover deficiencies in the fund against which warrants were issued.

Refunding warrants or bonds shall bear such date, be in such date, be in such denominations, and shall mature serially within such time, not exceeding thirty years from date of issuance, as the water resource board shall determine. The
average rate of interest on such warrants shall not exceed the
average rate of interest on refunded warrants.

The treasurer of the district shall pay special
assessment warrants, and the interest coupons attached thereto,
as they mature and are presented for payment out of the fund
against which they are drawn and shall cancel the warrants when
paid.

Any deficiency in any fund created for the payment of
district warrants payable in whole or in part out of
collections of special assessment taxes shall be the general
obligation of the water resource district.

61-16.1-52. APPEAL FROM DECISION OF WATER RESOURCE BOARD
- UNDERTAKING - JURISDICTION. An appeal may be taken to the
district court from any order or decision of the water resource
board by any person aggrieved. An appellant shall file an
undertaking in the sum of two hundred dollars with such
sureties as may be approved by the clerk of the district court
to which the appeal is taken. The undertaking shall be
conditioned that the appellant will prosecute the appeal
without delay and will pay all costs adjudged against the
appellant in the district court. The undertaking shall be in
favor of the water resource board as obligee, and may be sued
on in the name of the obligee. The appeal shall be taken to
the district court of the county in which the land claimed to
be affected adversely by the order or decision appealed from is
located.

61-16.1-53. APPEAL FROM DECISION OF WATER RESOURCE BOARD
- HOW TO BE TAKEN. The appeal provided for in this chapter is
taken by serving a written notice of appeal upon one of the
members of the water resource board and upon the secretary of
such board.

61-16.1-54. TIME FOR TAKING APPEAL FROM WATER RESOURCE
BOARD DECISION. An appeal as authorized by sections 61-16.1-52
and 61-16.1-53 must be taken within thirty days after the
decision has been entered by the secretary of the water
resources board.

61-16.1-55. FILING APPEAL - DOCKETING AND HEARING
APPEALS - FINAL JUDGMENT AND SENDING BACK. The appeal provided
for in this chapter shall be tried at the next term of the
district court after the appeal is taken. All appeals taken
under this chapter shall be docketed as are other causes
pending in the district court and the same shall be tried de
novo. The district court may enter a final judgment, or may
send the case back with directions on how to proceed.

61-16.1-56. ATTORNEY GENERAL TO ASSIST BOARDS -
EMPLOYMENT OF COUNSEL. The attorney general shall render legal
opinions or such other assistance to water resource boards as
is required to be rendered to state officers by
section 54-12-01. The water resource board, however, may
employ other counsel to advise and represent it in such actions
and appeals and in its proceedings.

61-16.1-57. PROCEEDINGS TO CONFIRM JUDICIAelly CONTRACTS,
SPECIAL ASSESSMENTS AND OTHER ACTS. Any water resource board,
before making any contract, or before levying special
assessments, or issuing special assessment warrants, or before
taking any special action, may commence a special proceeding in
district court by which the proceeding leading up to the making
of such contract, levying special assessments, issuing special
assessment warrants, or leading up to any other special action,
shall be judicially examined, approved, and confirmed. Such
judicial proceedings shall comply substantially with the
procedure required in the case of judicial confirmation of
proceedings, acts, and contracts of an irrigation district.

61-16.1-58. PENALTY FOR VIOLATION OF CHAPTER. Any
person violating any of the provisions of this chapter shall,
if no other criminal penalty is specifically provided, be
guilty of a class B misdemeanor.

61-16.1-59. VALIDATING ORGANIZATION AND ACTS OF WATER
MANAGEMENT DISTRICTS AND COUNTY DRAIN BOARDS. Nothing
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contained in this chapter shall be construed as impairing, invalidating or in any manner affecting the validity of acts or proceedings of water management districts or county drain boards which existed prior to the passage and approval of this chapter.

61-16.1-60. MAINTENANCE OF DRAINAGE PROJECTS. If it is desired to provide for maintenance of an assessment drain in whole or in part by means of special assessments, the levy in any year for such maintenance shall not exceed one dollar per acre [.40 hectare] on any agricultural lands benefited by the drain. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of one dollar per acre [.40 hectare]. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the agricultural land assessed the full one dollar per acre [.40 hectare]. Nonagricultural property shall be assessed such sum in any one year as the ratio of the benefits under the original assessments or any reassessment bears to the assessment of agricultural lands bearing the highest assessment. In case the maximum levy of one dollar per acre [.40 hectare] for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, a water resource board may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years.

61-16.1-61. DRAINS ALONG AND ACROSS PUBLIC ROADS AND RAILROADS. Drains may be laid along, within the limits of, or across any public road or highway, but not to the injury of such road. In instances where it is necessary to run a drain across a highway, the state highway department, the board of county commissioners, or the board of township supervisors, as the case may be, when notified by the water resource board to
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do so, shall make necessary openings through the road or
highway at its own expense, and shall build and keep in repair
all required culverts or bridges as provided under
section 61-16.1-62. In instances where drains are laid along
or within the rights of way of roads or highways, the drains
shall be maintained and kept open by and at the expense of the
water resource district concerned. A drain may be laid along
any railroad when necessary, but not to the injury of the
railroad, and when it is necessary to run a drain across the
railroad, the railroad company, when notified by the water
resource board to do so, shall make the necessary opening
through such railroad, shall build the required bridges and
culverts, and shall keep them in repair.

61-16.1-62. CONSTRUCTION OF BRIDGES AND CULVERTS -
COSTS. The water resource board shall construct such bridges
or culverts over or in connection with a drain as in its
judgment may be necessary to furnish passage from one part to
another of any private farm or tract of land intersected by
such drain. The cost of such construction shall be charged as
part of the cost of constructing the drain, and any such
bridge, culvert, or passageway shall be maintained under the
authority of the water resource board, and the necessary
expense shall be deemed a part of the cost of maintenance.
Whenever any bridge or culvert is to be constructed on a county
or township highway system over and across or in connection
with a drain, and the cost thereof shall exceed five hundred
dollars, the cost of constructing such bridge or culvert shall
be shared in the following manner:

1. The state water commission may, if funds are
available, participate in the portion of the cost
that exceeds five hundred dollars in accordance with
such rules and regulations as it may prescribe.

2. The remaining cost shall be borne forty percent by
the county and sixty percent by the water resource
district which has created the need for such
construction.

3. If, however, moneys have not been made available to
the commission for participation in accordance with
subsection 1, then forty percent of the cost of a
bridge or culvert costing in excess of one hundred
dollars shall be paid by the county and sixty percent
shall be charged as cost of the drain to the water
resource district.

4. Whenever any bridge or culvert costing one hundred
dollars or less is needed on any road, the cost of
such bridge or culvert shall be charged on the basis
of sixty percent to the water resource district and
forty percent to the township, or county if the
township is unorganized, in which the bridge or
culvert is located.

5. Where such bridges or culverts are constructed with
federal financial participation, the costs exceeding
the amount of the federal participation shall be
borne by the water resource district, county, or
township, according to the provisions of this
section, as the case may be.

61-16.1-63. PETITION FOR A LATERAL DRAIN - BOND OF
PETITIONERS.

1. For the purposes of this section, "lateral drain"
means a drain constructed after the establishment of
an original assessment drain or drainage system and
which flows into such original drain or drainage
system from outside the limits of the assessed area
of the original drain, provided that a determination
by a water resource board as to whether an existing
or proposed drain is a lateral or a new drain shall
be conclusive when entered upon the records of the
board.
All property owners whose property would be affected by a lateral drain may jointly petition the board for the construction of such drain and shall deposit with the board a good and sufficient bond to be approved by the board, conditioned upon the petitioner or petitioners paying all costs of the proposed lateral drain. A petition for a lateral drain shall be sufficient if signed by one or more property owners whose property will be affected by the lateral drain. Whenever improvements of an original drain are made necessary by the construction of a lateral drain, the costs of such improvements to the original drain shall be charged as part of the cost of construction of the lateral drain and assessed against the property benefited thereby and collected as other assessments are collected. In the event the board determines that improvements to the original drain are also beneficial to property served by the original drain, the board may assess that portion of the cost of the improvements it determines appropriate to property benefited by the original drain. Unless the petitioners agree to construct the lateral drain, the board, within ten days, may commence proceedings for the construction of the lateral drain according to the provisions of this chapter. No person shall dig or construct any lateral ditch or drain which will conduct the flow of water from any land or lands into any drain constructed under the provisions of this chapter, except as provided in this section and with approval of the board. In all instances involving the construction of a lateral drain, the board shall estimate and determine the proportionate share of the cost of the main or original drain which should be paid by the petitioners. The petitioners shall pay
into the district treasury the amount so determined, and shall then be allowed to connect such lateral ditches or drains with the original drain under the direction and superintendence of the board, but at their own cost and expense. The money paid into the county treasury shall be credited to the drainage fund of the specific drain involved.

3. Where one or more of the property owners to be benefited by the construction of a lateral drain or ditch petitions the water resource district for the construction of a lateral drain or ditch, the water resource district shall then proceed in the same manner as is used for the establishment of a new drain and thereafter such lateral drain shall constitute a part of the original drain to which it is connected and the affected property shall be a part of such drainage district.

61-16.1-64. ESTABLISHING NEW DRAINS IN LOCATION OF INVALID OR ABANDONED DRAIN. If any of the proceedings for the location, establishment, or construction of any drain under the provisions of this chapter shall have been enjoined, vacated, set aside, declared void, or voluntarily abandoned by the board, for any reason whatsoever, the board may proceed under the provisions of sections 61-16.1-32 through 61-16.1-73 to locate, establish, and construct a new drain at substantially the same location as the abandoned or invalid drain. For the purposes of this chapter, a drain that is not properly maintained shall be considered abandoned. When a new drain is established at substantially the same location, the board shall ascertain the real value of services rendered, moneys expended and work done under the invalid or abandoned proceedings and the extent to which the same contributes to the construction and completion of the new drain. The board shall then issue warrants in an amount not exceeding the value to the new drain of the work completed on the invalid or abandoned drain and
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shall deliver such new warrants, pro rata, to the owners or
holders of old warrants or bonds issued under the invalid or
abandoned drainage proceedings, upon the surrender of such old
warrants or bonds by the holder or holders thereof.

61-16.1-65. DRAIN KEPT OPEN AND IN REPAIR BY BOARD. All
assessment drains that have been constructed in any district,
except township drains, shall be under the charge of the water
resource board and it shall be the duty of the board to keep
those drains open and in good repair. It shall be the
mandatory duty of the board, within the limits of available
funds, to clean out and repair any assessment drain when
requested to do so by petition of the affected landowners
having fifty percent or more of the possible votes, as
determined according to section 61-16.1-35.

61-16.1-66. ASSESSMENT OF COSTS OF CLEANING AND
REPAIRING DRAINS. The cost of cleaning out and repairing an
assessment drain shall be assessed pro rata against the lands
benefited in the same proportion as the original assessment of
the costs in establishing such drain, or in accordance with any
reassessment of benefits in instances where there has been a
reassessment of benefits under the provisions of
section 61-16.1-41. In cases where no assessment for
construction costs or reassessment of benefits has been made,
the board shall make assessments for the cost of cleaning and
repairing such drain in accordance with the provisions of this
chapter for the establishment of a new project. The governing
body of any incorporated city, by agreement with the board, is
authorized to contribute to the cost of cleaning out,
repairing, and maintaining a drain in excess of the amount
assessed under this section, and such excess contribution may
be expended for such purposes by the board.

61-16.1-67. DRAINS HAVING A COMMON OUTLET MAY BE
CONSOLIDATED. Whenever one or more drains which have from time
to time been constructed, empty into a drain that supplies the
outlet for waters flowing in all such drains, such drains may
by resolution or order of the water resource board, if the cost
of construction of such drains has been paid, be consolidated
into one drain or drainage system and shall be renumbered and
may be renamed.

61-16.1-68. REMOVAL OF OBSTRUCTIONS TO DRAIN - NOTICE
AND HEARING - APPEAL - INJUNCTION - DEFINITION. If the board
determines that an obstruction to a drain has been caused by
the negligent act or omission of a landowner or tenant, the
board shall notify the landowner by registered or certified
mail at the landowner's post-office address of record. A copy
of the notice shall also be sent to the tenant, if any. The
notice shall specify the nature and extent of the obstruction,
the opinion of the board as to its cause, and shall state that
if the obstruction is not removed within such period as the
board shall determine, but not less than thirty days, the board
shall procure removal of the obstruction and assess the cost
thereof, or such portion as the board shall determine
appropriate, against the property of the landowner responsible.
The notice shall also state that the affected landowner may,
within fifteen days of the date the notice is mailed, demand,
in writing, a hearing on the matter. Upon receipt of such
demand the board shall set a hearing date within fifteen days
from the date the demand is received. In the event of an
emergency the board may immediately apply to the appropriate
district court for an injunction prohibiting a landowner or
tenant from maintaining an obstruction. Any assessments levied
under the provisions of this section shall be collected in the
same manner as other assessments authorized by this chapter.
If, in the opinion of the board, more than one landowner or
tenant has been responsible, the costs may be assessed on a pro
rata basis in accordance with the proportionate responsibility
of the landowners. Any landowner aggrieved by action of the
board under the provisions of this section may appeal the
decision of the board to the district court of the county in
which the land is located in accordance with the procedure
provided under sections 61-16.1-52 through 61-16.1-55. A hearing as provided for in this section shall not be a prerequisite to such an appeal.

For the purposes of this section, "an obstruction to a drain" means any barrier to a watercourse, as defined by section 61-01-06, or any artificial drain, which materially affects the free flow of waters in such watercourse or drain.

61-16.1-69. CULVERT AND PIPE ARCH BIDS AND ACCEPTANCE. A board may advertise for bids to supply culverts and pipe arches and may accept one or more low bids. A board may utilize bids for such materials received by the county within which the board has jurisdiction and may accept one or more low bids. The board may then purchase materials from the accepted low bidder or bidders for a period of one year from the date of the original acceptance of the bids.

61-16.1-70. PERMIT TO DRAIN WATERS REQUIRED - PENALTY. Any person, before draining water from a pond, slough, or lake, or any series thereof, which drains an area comprising eighty acres (32.37 hectares) or more, shall first secure a permit to do so. The permit application shall be submitted to the state engineer. The state engineer shall refer the application to the water resource district or districts within which is found a majority of the watershed or drainage area of the pond, slough, or lake for consideration and approval, but the state engineer may require that applications proposing drainage of statewide or interdistrict significance be returned to him for final approval. A permit shall not be granted until an investigation discloses that the quantity of water which will be drained from the pond, slough, or lake, or any series thereof, will not flood or adversely affect downstream lands. In addition, consideration shall be given to the state water resources policy set forth in section 61-01-26. If the investigation shows that the proposed drainage will flood or adversely affect lands of downstream landowners, the water resource board or boards shall not issue a permit until flowage
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1 easements are obtained. Such flowage easements shall be filed
2 for record in the office of the register of deeds of the county
3 or counties in which the lands are situated. An owner of land
4 proposing to drain shall undertake and agree to pay the
5 expenses incurred in making the required investigation. The
6 provisions of this section shall not be construed to apply to
7 the construction or maintenance of any existing or prospective
8 drain constructed under the supervision of a state or federal
9 agency.
10 Any person draining, or causing to be drained, water of a
11 pond, slough, or lake, or any series thereof, which drains an
12 area comprising eighty acres [32.37 hectares] or more, into a
13 watercourse, without first securing a permit to do so, as
14 provided by this section, shall be liable for all damage
15 sustained by any person caused by such draining, and shall be
16 guilty of an infraction. When temporary ponding of water
17 occurs due to spring runoff or heavy rains, an area not in
18 excess of eighty acres [32.37 hectares] may be drained without
19 first securing a permit.

61-16.1-71. CLOSING A NONCOMPLYING DRAIN - NOTICE AND
20 HEARING - APPEAL - INJUNCTION. Upon receipt of a complaint of
21 unauthorized drainage; the board shall promptly investigate and
22 make a determination of the facts with respect to the
23 complaint. If the board determines that a drain, lateral
24 drain, or ditch has been opened or established by a landowner
25 or tenant contrary to the provisions of title 61 or any rules
26 or regulations promulgated by the board, the board shall notify
27 the landowner by registered or certified mail at the
28 landowner's post-office address of record. A copy of the
29 notice shall also be sent to the tenant, if any. The notice
30 shall specify the nature and extent of the noncompliance and
31 shall state that if the drain, lateral drain, or ditch is not
32 closed or filled within such period as the board shall
33 determine, but not less than thirty days, the board shall
34 procure the closing or filling of the drain, lateral drain, or
ditch and assess the cost thereof, or such portion as the board
shall determine, against the property of the landowner
responsible. The notice shall also state that the affected
landowner may, within fifteen days of the date the notice is
mailed, demand, in writing, a hearing on the matter. Upon
receipt of the demand, the board shall set a hearing date
within fifteen days from the date the demand is received. In
the event of an emergency, the board may immediately apply to
the appropriate district court for an injunction prohibiting
the landowner or tenant from constructing or maintaining the
drain, lateral drain, or ditch and ordering the closure of the
illegal drain. Any assessments levied under the provisions of
this section shall be collected in the same manner as other
assessments authorized by this chapter. If, in the opinion of
the board, more than one landowner or tenant has been
responsible, the costs may be assessed on a pro rata basis in
proportion to the responsibility of the landowners. Any person
aggrieved by action of the board under the provisions of this
section may appeal the decision of the board to the district
court of the county in which the land is located in accordance
with the procedure provided under section 61-16.1-52 through
61-16.1-55. A hearing as provided for in this section shall
not be a prerequisite to such an appeal.

61-16.1-72. REMOVAL OF A NONCOMPLYING DIKE OR DAM -
NOTICE AND HEARING - APPEAL - INJUNCTION. Upon receipt of a
complaint of unauthorized construction of a dike, dam or other
device for water conservation, flood control, regulation,
watershed improvement, or storage of water, the board shall
promptly investigate and make a determination thereon. If the
board determines that a dam or other device, capable of
retaining, obstructing, or diverting more than twelve and
one-half acre-feet (15,418.52 cubic meters) of water, has been
established or constructed by a landowner or tenant contrary to
the provisions of this title or any rules or regulations
promulgated by the board, the board shall notify the landowner
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1 by registered or certified mail at the landowner's post-office
2 address of record. A copy of the notice shall also be sent to
3 the tenant, if any. The notice shall specify the nature and
4 extent of the noncompliance and shall state that if the dike,
5 dam, or other device is not removed within such period as the
6 board shall determine, but not less than thirty days, the board
7 shall cause the removal of the dike, dam, or other device and
8 assess the cost thereof, or such portion as the board shall
9 determine, against the property of the landowner responsible.
10 The notice shall also state that the affected landowner may,
11 within fifteen days of the date the notice is mailed, demand,
12 in writing, a hearing upon the matter. Upon receipt of such
13 demand, the board shall set a hearing date within fifteen days
14 from the date the demand is received. In the event of an
15 emergency, the board may immediately apply to the appropriate
16 district court for an injunction prohibiting the landowner or
17 tenant from constructing or maintaining the dike, dam, or other
18 device, or ordering the landowner to remove the dike, dam, or
19 other device. Any assessments levied under the provisions of
20 this section shall be collected in the same manner as other
21 assessments authorized by this chapter. If, in the opinion of
22 the board, more than one landowner or tenant has been
23 responsible, the costs may be assessed on a pro rata basis in
24 proportion to the responsibility of the landowners. Any person
25 aggrieved by action of the board under the provisions of this
26 section may appeal the decision of the board to the district
27 court of the county in which the land is located in accordance
28 with the procedure provided under sections 61-16.1-52 through
29 61-16.1-55. A hearing as provided for in this section shall
30 not be prerequisite to such an appeal.

61-16.1-73. AUTHORIZATION TO ORGANIZE ASSOCIATION OF
WATER RESOURCE DISTRICTS.

1. Water resource districts, organized and established
   pursuant to this chapter, are hereby authorized upon
resolution of the water resource boards to organize
and participate in an association of districts.

2. The association or associations authorized hereunder
shall be organized pursuant to chapters 10-24 through
10-28.

SECTION 2. AMENDMENT. Section 61-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as
follows:

61-01-06. WATERCOURSE - DEFINITION. A watercourse
entitled to the protection of the law is constituted if there
is a sufficient natural and accustomed flow of water to form
and maintain a distinct and a defined channel. It is not
essential that the supply of water should be continuous or from
a perennial living source. It is enough if the flow arises
periodically from natural causes and reaches a plainly defined
channel of a permanent character. If requested by a water
resource board, the state engineer shall determine if a
watercourse is constituted.

SECTION 3. AMENDMENT. Section 61-21-01 of the 1979 Supple
ment to the North Dakota Century Code is hereby amended
and reenacted to read as follows:

61-21-01. DEFINITIONS. In this chapter, unless the
subject matter otherwise requires:

1. "Drain" shall include means any natural watercourse
opened, or proposed to be opened, and improved for
the purpose of drainage and any artificial drains of
any nature or description constructed for such
purpose, including dikes and appurtenant works. This
definition may include more than one watercourse or
artificial channel constructed for the aforementioned
purpose when the watercourses or channels drain land
within a practical drainage area as determined by the
written petition called for in section 61-21-10 and
the survey and examination called for in section
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2. "Board" shall mean the board of drainage
   commissioners of a water resource district.

3. "Cleaning out and repairing of drain" shall mean deepening and widening of drains as well as
   removing obstructions or sediment, and any repair necessary to return the drain to a satisfactory and
   useful condition.

4. "Lateral drain" shall mean a drain constructed
   after the establishment of the original drain or
   drainage system and which flows into such original
   drain or drainage system from outside the limits of
   the original drain, provided that a determination by
   the board as to whether an existing or proposed drain
   is a lateral or a new drain within the meaning of
   this subsection shall be conclusive when entered upon
   the records of such board.

5. "Affected landowners" shall mean landowners
   whose land is subject to assessment or condemnation.

SECTION 4. AMENDMENT. Section 61-21-11 of the 1979
Supplement to the North Dakota Century Code is hereby amended
and reenacted to read as follows:

61-21-11. BOND REQUIRED FROM PETITIONERS. The board may
require the petitioners referred to in section 61-21-10 to file
a bond with the petition in a sum sufficient to pay all
expenses of surveys and of the drainage commissioners should
the petition be later denied. However, in no event shall the
petitioners be required to pay expenses of surveys and of the
water resources board, and any other expenses that may be
incurred, if the petition is later approved, but the drain is
not constructed.

SECTION 5. AMENDMENT. Section 61-21-41 of the North
Dakota Century Code is hereby amended and reenacted to read as
follows:

61-21-41. ESTABLISHING NEW DRAINS IN LOCATION OF INVALID
OR ABANDONED DRAIN. If any of the proceedings for the
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1 location, establishment, or construction of any drain under the
2 provisions of this chapter shall have been enjoined, vacated,
3 set aside, declared void, or voluntarily abandoned by the
4 board, for any reason whatsoever, the board may proceed under
5 the provisions of this chapter to locate, establish, and
6 construct a new drain at substantially the same location as the
7 abandoned or invalid drain. For the purposes of this chapter,
8 a drain that is not maintained shall be considered abandoned.
9 When a new drain is established at substantially the same
10 location, the board shall ascertain the real value of services
11 rendered, moneys expended and work done under the invalid or
12 abandoned proceedings and the extent to which the same
13 contributes to the construction and completion of the new
14 drain. The board shall then issue warrants in an amount not
15 exceeding the value to the new drain of the work completed on
16 the invalid or abandoned drain and shall deliver such new
17 warrants, pro rata, to the owners or holders of old warrants or
18 bonds issued under the invalid or abandoned drainage
19 proceedings, upon the surrender of such old warrants or bonds
20 by the holder or holders thereof.

SECTION 6. REPEAL. Chapter 61-16 and sections 61-21-05,
22 61-21-06, 61-21-07, 61-21-08, and 61-21-09 of the North Dakota
23 Century Code and sections 61-21-03 and 61-21-04 of the 1979
24 Supplement to the North Dakota Century Code are hereby
25 repealed. This section shall not take effect until
26 April 1, 1983.

SECTION 7. REPEAL. Section 61-01-22 of the 1979
27 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 8. EMERGENCY. This Act is hereby declared to be
29 an emergency measure and shall be in effect from and after its
30 passage and approval.