

## CHAPTER 103D

### WATERSHED DISTRICTS

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#### 103D.101 BOARD OF WATER AND SOIL RESOURCES.

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. **Records.** The board must keep a record of all proceedings before it and maintain the record on file. Copies of the record may be obtained on terms and conditions prescribed by the board.

*[For text of subd 5, see M.S.1994]*

**History:** 1995 c 199 s 1

#### 103D.205 ESTABLISHMENT PETITION.

Subdivision 1. **Filing.** To establish a watershed district, an establishment petition must be filed with the board.

*[For text of subs 2 and 3, see M.S.1994]*

Subd. 4. **Filing establishment petitions.** The petitioners must file a copy of the establishment petition with the auditors of the counties affected by the proposed watershed district, the commissioner, and the director. The original establishment petition, with a signed statement of delivery or receipt for each of the establishment petitions submitted to the auditors of affected counties, the commissioners, and the directors, must be filed with the board.

*[For text of subs 5 to 7, see M.S.1994]*

**History:** 1995 c 199 s 2,3

#### 103D.221 ESTABLISHMENT HEARING NOTICE.

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Notice.** (a) The board must give notice of the establishment hearing by publication in a legal newspaper that is published in counties affected by the proposed watershed district. The last publication must occur at least ten days before the establishment hearing.

(b) The board must give notice of the establishment hearing by mail to the auditors of counties and to the chief executive officials of municipalities affected by the proposed watershed district.

(c) The notice must include:

- (1) a statement that an establishment petition has been filed with the board and auditors of counties affected by the proposed watershed district;
- (2) a general description of the need for the proposed district, and the purpose of the proposed watershed district's contemplated improvements, if any;
- (3) a general description of the property to be included in the proposed watershed district;
- (4) the date, time, and location of hearing; and
- (5) a statement that all persons affected or interested in the establishment of the proposed watershed district may attend and give statements at the establishment hearing.

**History:** 1995 c 199 s 4

### 103D.255 WITHDRAWAL OF TERRITORY.

Subdivision 1. **Petition.** (a) Proceedings to withdraw territory from an existing watershed district must be initiated by a petition filed with the board.

(b) The required signatures on a petition for withdrawal are the same as prescribed for an establishment petition, but the percentages must be calculated only with reference to the territory that is proposed to be withdrawn from the watershed district.

(c) The petition must state that:

- (1) the territory described has not received or will not receive any benefits from the operation of the watershed districts;
- (2) the watershed district can perform the functions for which it was established without the inclusion of the territory; and
- (3) the territory is not, in fact, a part of the watershed.

(d) The petition must request the release of the described territory from the watershed district.

(e) The petition must be served on the board and any affected watershed district, and the board shall proceed as prescribed for an establishment petition. The requirements for notices and public hearings are as prescribed for the establishment petition.

*[For text of subd 2, see M.S.1994]*

**History:** 1995 c 199 s 5

### 103D.261 PROCEEDINGS TO ENLARGE A WATERSHED DISTRICT.

Subdivision 1. **Petition.** (a) Proceedings to enlarge an existing watershed district must be initiated by a petition filed with the board. The required signatures on a petition to enlarge are the same as for an establishment petition, but the percentages must be calculated only with reference to the territory that is proposed to be added to the watershed district. The petition must:

- (1) state that the area to be added is contiguous to the existing watershed district;
- (2) state that the area can be feasibly administered by the managers of the existing watershed district;
- (3) state reasons why adding the area to the existing watershed district would be conducive to the public health and welfare;
- (4) include a map of the affected area;
- (5) state the name of the proposed enlarged watershed district, if other than that of the existing watershed district; and
- (6) state a request for the addition of the proposed territory.

(b) The petition must be served on the board and affected watershed districts, and the board must proceed as prescribed for an establishment petition.

(c) The requirement of notice and public hearings is as prescribed for the establishment petition.

*[For text of subds 2 and 3, see M.S.1994]*

**History:** 1995 c 199 s 6

**103D.271 PROCEDURE FOR TERMINATION OF WATERSHED DISTRICT.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Initiation.** Proceedings for the termination of a watershed district may only be initiated by filing a termination petition with the board.

*[For text of subd 3, see M.S.1994]*

Subd. 4. **Termination petition.** (a) The termination petition must be signed by at least 25 percent of the resident owners residing in the watershed district. The termination petition must state that the existence of the watershed district does not benefit the public welfare and public interest and the watershed district is not needed to accomplish the purposes of this chapter.

(b) The petitioners must file a copy of the termination petition with the auditors of the counties affected by the watershed district. The original termination petition with a statement signed for delivery or receipt of each of the termination petitions submitted to the auditors of counties affected by the watershed district must be filed with the board.

*[For text of subds 5 to 10, see M.S.1994]*

**History:** 1995 c 199 s 7,8

**103D.305 INCREASING NUMBER OF MANAGERS.**

Subdivision 1. **Initiation.** A proceeding to increase the number of managers of a watershed district must be initiated by filing a petition with the board.

*[For text of subds 2 to 5, see M.S.1994]*

**History:** 1995 c 199 s 9

**103D.311 APPOINTMENT OF MANAGERS.**

*[For text of subds 1 to 3, see M.S.1994]*

Subd. 4. **Record of appointed managers.** A record of all appointments made under this section must be filed with the county auditor of each county affected by the watershed district, the secretary of the board of managers, and the board of water and soil resources.

**History:** 1995 c 199 s 10

**103D.315 MANAGERS.**

Subdivision 1. **Oath.** Each manager must take and sign the oath defined in the Minnesota Constitution, article V, section 6. The signed oath must be filed with the board.

*[For text of subds 2 to 7, see M.S.1994]*

Subd. 8. **Compensation.** The compensation of managers for meetings and for performance of other necessary duties may not exceed \$55 a day. Managers are entitled to reimbursement for traveling and other necessary expenses incurred in the performance of official duties.

*[For text of subds 9 and 10, see M.S.1994]*

Subd. 11. **Administration bylaws.** The managers shall adopt bylaws for the administration of the business and affairs of the watershed district. Bylaws adopted under this subdivision are not subject to section 103D.341.

**History:** 1995 c 199 s 11-13

**103D.321 PRINCIPAL PLACE OF BUSINESS**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Change of principal place of business.** (a) The managers may initiate a change of the principal place of business to a different location within the watershed district by passing a resolution stating the proposed change of location. After passing the resolution, the managers must set a time and location for a hearing on the change of the principal place of business.

(b) The managers must give notice of the hearing by publication in a legal newspaper, published in the counties affected by the watershed district, with the last publication occurring at least ten days before the hearing. Notice of the hearing must be mailed to the auditors of counties affected by the watershed district ten days before the hearing. After the hearing, the managers may, by order, change the place of business.

(c) The change of the principal place of business of the watershed district is effective when a certified copy of the managers' order is filed with the secretary of state and the board.

**History:** 1995 c 199 s 14

### 103D.331 ADVISORY COMMITTEE.

Subdivision 1. **Purpose.** The managers must annually appoint an advisory committee to advise and assist the managers on all matters affecting the interests of the watershed district and make recommendations to the managers on all contemplated projects and improvements in the watershed district.

Subd. 1a. **Duties.** For purposes of carrying out its duties under this section the advisory committee shall:

- (1) elect a chair from its membership;
- (2) elect a recorder from its membership;
- (3) establish a meeting schedule, which at a minimum meets annually;
- (4) consider issues pertinent to the functions and purposes of the watershed district;
- (5) review and comment on reports, minutes, activities, and proposed projects of the managers; and
- (6) report to the managers the general content of advisory committee meetings and resulting recommendations.

Subd. 2. **Members.** (a) The advisory committee consists of at least five members. If practicable, the advisory committee members selected should include a representative from each soil and water conservation district, a representative of each county, a member of a sporting organization, and a member of a farm organization. Other advisory committee members may be appointed at the discretion of the managers. The members must be residents of the watershed district, except representatives from soil and water conservation districts and counties, and serve at the pleasure of the managers.

(b) In addition, the managers may appoint other interested and technical persons who may or may not reside within the watershed district to serve at the pleasure of the managers.

Subd. 3. **Expense reimbursement.** The managers may reimburse members of the advisory committee for actual traveling and other necessary expenses incurred in the performance of duties in the amount as provided for state employees.

**History:** 1995 c 199 s 15

### 103D.335 DISTRICT AND MANAGERS' POWERS.

*[For text of subds 1 to 4, see M.S. 1994]*

Subd. 5. **Data acquisition.** The managers may:

- (1) make necessary surveys or use other reliable surveys and data and develop projects and programs to acquire data to accomplish the purposes for which the watershed district is organized; and
- (2) establish and maintain devices for acquiring and recording hydrological and water quality data.

Subd. 6. **Projects not requiring a petition.** The managers may initiate, undertake, and implement projects not required to be instituted by a petition under section 103D.701.

*[For text of subs 7 to 10, see M.S.1994]*

Subd. 11. **Acquisition of property.** The managers may acquire by gift, purchase, taking under the procedures of this chapter, or by the right of eminent domain, necessary real and personal property. The watershed district may acquire property outside the watershed district where necessary for a water supply system.

*[For text of subd 12, see M.S.1994]*

Subd. 13. **Construction or implementation contracts.** The managers may enter into contracts of construction or implementation authorized by this chapter.

*[For text of subs 14 to 18, see M.S.1994]*

Subd. 19. **Open space and greenbelts.** The managers may prepare an open space and greenbelt map of the lands of the watershed district that should be preserved and included in the open space and greenbelt land areas of the watershed district. The map must be made available to the counties and local municipalities for inclusion in floodplain and shoreland ordinances. The managers may control the use and development of land in the floodplain and the greenbelt and open space areas of the watershed district. The managers may adopt, amend, or repeal rules to control encroachments, the changing of land contours, the placement of fill and structures, and the placement of encumbrances or obstructions, and may require a landowner to remove fill, structures, encumbrances, or other obstructions and restore the previously existing land contours and vegetation. The managers may by rule provide a procedure for the watershed district to do the work required and assess its cost against the affected property as a special assessment. The rules apply only in the absence of county or municipal ordinances regulating the items set forth in this subdivision. The rules must be adopted in accordance with section 103D.341. Except as provided in section 103D.345, subdivision 3, rules adopted under this subdivision apply to the state.

*[For text of subs 20 to 24, see M.S.1994]*

Subd. 25. **Water resource management activities.** The managers may conduct studies and monitoring of water resources within the watershed district and implement water resource management programs.

**History:** 1995 c 199 s 16–20; 1995 c 220 s 92

### 103D.341 RULES.

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Procedure.** (a) Rules of the watershed district must be adopted or amended by a majority vote of the managers, after public notice and hearing. Rules must be signed by the secretary of the board of managers and recorded in the board of managers' official minute book.

(b) Prior to adoption, the proposed rule or amendment to the rule must be submitted to the board for review and comment. The board's review shall be considered advisory. The board shall have 45 days from receipt of the proposed rule or amendment to the rule to provide its comments in writing to the watershed district.

(c) For each county affected by the watershed district, the managers must publish a notice of hearings and adopted rules in one or more legal newspapers published in the county and generally circulated in the watershed district. The managers must file adopted rules with the county recorder of each county affected by the watershed district and the board.

(d) The managers must mail a copy of the rules to the governing body of each municipality affected by the watershed district.

*[For text of subd 3, see M.S.1994]*

**History:** 1995 c 199 s 21

### 103D.351 ANNUAL REPORT.

(a) The managers must prepare a yearly report of the financial conditions of the watershed district, the status of all projects, the business transacted by the watershed district,

other matters affecting the interests of the watershed district, and a discussion of the managers' plans for the succeeding year.

(b) Copies of the report must be transmitted to the board of water and soil resources, the commissioner, and the director within a reasonable time.

**History:** 1995 c 199 s 22

### 103D.401 WATERSHED MANAGEMENT PLAN.

Subdivision 1. **Contents.** (a) The managers must adopt a watershed management plan for any or all of the purposes for which a watershed district may be established. The watershed management plan must give a narrative description of existing water and water-related problems within the watershed district, possible solutions to the problems, and the general objectives of the watershed district. The watershed management plan must also conform closely with watershed management plan guidelines as adopted and amended from time to time by the board of water and soil resources.

(b) The watershed management plan may include a separate section on proposed projects. If the watershed district is within the metropolitan area, the separate section of proposed projects or petitions for projects to be undertaken according to the watershed management plan is a comprehensive plan of the watershed district for purposes of review by the metropolitan council under section 473.165.

Subd. 2. **Review.** The managers must send a copy of the proposed watershed management plan to the county auditor of each county affected by the watershed district, the board, the commissioner, the director, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district. For a watershed district within the metropolitan area, a copy of the proposed watershed management plan must also be submitted to the metropolitan council.

*[For text of subs 3 to 5, see M.S.1994]*

**History:** 1995 c 199 s 23,24

### 103D.405 REVISED WATERSHED MANAGEMENT PLAN.

Subdivision 1. **Requirements.** (a) The managers and the board must revise the watershed management plan for the watershed district at least once every ten years after the original watershed management plan is approved. The revised watershed management plan of the district must conform closely with adopted watershed management plan guidelines of the board of water and soil resources.

(b) The managers must include the following items in the revised watershed management plan:

(1) updates and supplements of the existing hydrological and other statistical data of the watershed district;

(2) specific projects and programs to be considered for implementation;

(3) a statement of the extent that the purposes for which the watershed district had been established have been accomplished;

(4) a description of problems requiring future action by the watershed district;

(5) a summary of completed studies on active or planned projects, including financial data; and

(6) an analysis of the effectiveness of the watershed district's rules and permits in achieving its water management objectives in the watershed district.

(c) A revised watershed management plan must be transmitted, reviewed, recommended, and approved as provided in subdivisions 2 to 4 and 6.

*[For text of subs 2 to 6, see M.S.1994]*

**History:** 1995 c 199 s 25

### 103D.515 PREEXISTING AND IMPROVED WATER RIGHTS.

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. **Approval of rights transfer.** Leases, assignments, permits, or contracts for the use of water shall be entered into only after the managers have reported to the board the terms and conditions of the lease, permit, or contract relative to the use of any watershed district property. The board shall give notice of the contract to all parties interested, by mail, and shall have notice of the application published. The notice must state the purpose of the application and the time and place of hearing on it. At the time of hearing the board shall hear all interested persons for or against the proposed contract and make an order accordingly on conditions and restrictions necessary to protect the interest of the watershed district and of the public.

**History:** 1995 c 199 s 26

### 103D.531 CONTINUANCE OF HEARINGS.

If an order has been made and notice given for a hearing in a proceeding under this chapter, and the board, managers, or court fail to appear at the time and place specified, the board or the managers, or the court administrator of the district court shall continue the hearing to another date as necessary and notify the board, managers, or the court of the continuance and the date of hearing. The matter shall be continued to that date without affecting the jurisdiction of the board, the managers, or the court.

**History:** 1995 c 199 s 27

### 103D.535 APPELLATE PROCEDURES AND REVIEW.

Subdivision 1. **What can be appealed.** (a) Any party alone or jointly may appeal to the district court or to the board an order of the managers made in a proceeding relating to a project and entered in the watershed district's record that determines:

- (1) the amount of benefits determined;
- (2) the amount of damages allowed;
- (3) the allowance of fees or expenses in any proceedings;
- (4) a matter in the proceeding that affects a substantial right; or
- (5) an order of the managers authorizing or refusing to establish a project in whole or in part.

(b) Actions of the managers that do not relate to projects, including actions related to permits and actions to enforce watershed district rules, are not reviewable under this section.

(c) Projects initiated and financed by watershed districts, wholly within the metropolitan area, under a state-approved and locally adopted surface water management plan under section 103B.201 are not reviewable under this section.

*[For text of subs 2 and 3, see M.S.1994]*

Subd. 4. **Appeals can involve property other than appellant's own.** (a) A person or political subdivision appealing the amount of benefits or damages may include and have considered and determined benefits or damages affecting property other than that person's or political subdivision's own property.

(b) Notice of the appeal must be served on:

- (1) the owner or occupant of the property not owned by the appellant or on the attorney who represented the other owner in the proceedings;
- (2) the auditor of the county where the property is located; and
- (3) on the court administrator of the district court of the county where the principal place of business of the watershed district is located, or on the board.

Subd. 5. **Notice of appeal.** (a) Before the appeal is heard by the court or board, the appellant must file a notice of appeal with the court administrator of the district court or the secretary of the board. The appeal must:

- (1) be filed within 30 days of the date of the final order;
- (2) state the grounds upon which the appeal is taken; and
- (3) be accompanied by an appeal bond of at least \$250 to the watershed district where the property is located.

(b) The bond must be approved by the court administrator of the district court or the board where the appeal is filed. The bond must be conditioned that the appellant will:

- (1) make the appeal;
- (2) pay all costs and disbursements that may be adjudged against the appellant; and
- (3) comply with the order of the court or of the board where the appeal is filed.

*[For text of subs 6 to 11, see M.S.1994]*

**History:** 1995 c 199 s 28–30

### **103D.537 APPEALS OF RULES, PERMIT DECISIONS, AND ORDERS NOT INVOLVING PROJECTS.**

(a) Except as provided in section 103D.535, an interested party may appeal a permit decision or order made by the managers by a declaratory judgment action brought under chapter 555. An interested party may appeal a rule made by the managers by a declaratory judgment action brought under chapter 555 or by appeal to the board. The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order must be filed within 30 days of the managers' decision.

(b) By January 1, 1997, the board shall adopt rules governing appeals to the board under paragraph (a). A decision of the board on appeal is subject to judicial review under sections 14.63 to 14.69.

**History:** 1995 c 199 s 31

### **103D.539 INFORMAL RESOLUTION OF DISPUTES.**

An interested party may request a meeting with the dispute resolution committee of the board of water and soil resources to informally resolve a dispute before initiating a declaratory judgment action or an appeal under sections 103D.535 and 103D.537.

**History:** 1995 c 199 s 32

### **103D.611 CONSTRUCTION BY GOVERNMENT AGENCIES.**

Subdivision 1. **Project plan to director and board.** If a project is to be constructed within the watershed district under a contract between the watershed district and the state or the federal government, and the cost of construction or implementation is to be paid by the governmental agency but the rights-of-way, legal, and general expenses of the improvement are to be paid by the watershed district, the managers shall forward a copy of the project plan to the board and the director. The director shall prepare a director's advisory report and the board shall prepare a board's advisory report.

*[For text of subs 2 and 3, see M.S.1994]*

Subd. 4. **Appraisal.** (a) After authorizing the project, the managers shall appoint three disinterested resident owners of the state to act as appraisers.

(b) After the appraisers sign an oath to faithfully and impartially perform their duties, they shall, with or without the engineer, determine the benefits and damages to property affected by the proposed project. The appraisers shall make a detailed statement and file the statement with the managers showing:

- (1) the actual damages that have resulted or will result to individuals, property, or corporations from the construction or implementation of the project; and
- (2) a list of property, including highways and corporations, receiving actual benefits by way of drainage, control of flood waters, or other means authorized in this chapter.

Subd. 5. **Hearing on appraisers' report.** (a) After the appraisers' report and the plans and engineering data prepared by the governmental agency are filed with the managers, the managers shall prepare a detailed statement of all costs, including damages, to be incurred by the watershed district in construction or implementation of the project.

(b) The managers shall order a time and place within the watershed district for a hearing on the appraisers' report by 35 days after the detailed statement of costs is prepared. The



managers shall give notice by publication and mailing as provided in subdivision 1 for a hearing on a petition. At the time and place specified in the notice, the managers shall hear all parties interested for and against confirming the appraisers' report.

(c) The managers may order and direct the modification of the assessment of benefits and damages, and amend or change the list of properties reported as benefited or damaged. If the amended reports include property not included in the original report, the managers shall adjourn and publish and mail in the manner for the original notice, the proper notice concerning the property not included in the previous notice.

(d) If upon full hearing the managers find that the benefits resulting from the construction or implementation will be greater than the assessments including damages they shall confirm the appraisers' report.

(e) Persons or political subdivisions affected by the order may appeal the order under this chapter.

*[For text of subs 6 to 8, see M.S.1994]*

**History:** 1995 c 199 s 33-35

### 103D.621 DRAINAGE IMPROVEMENTS.

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. **Alternative power.** With the concurrence of the governing bodies of the cities and the town boards of the towns where the drainage system is located, the managers may improve and repair a drainage system under the power granted to them in this chapter notwithstanding any provision of chapter 103E.

*[For text of subd 5, see M.S.1994]*

**History:** 1995 c 199 s 36

### 103D.625 DRAINAGE SYSTEMS WITHIN WATERSHED DISTRICT.

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. **Procedure for repair or improvement.** After the transfer is ordered, all proceedings for repair and maintenance must conform to chapter 103E, except for repairs and maintenance done pursuant to section 103D.621, subdivision 4.

Subd. 4. **Construction or improvement.** Construction of new drainage systems or improvements of existing drainage systems in the watershed district must be initiated by filing a petition with the managers. The proceedings for the construction or improvement of drainage systems in the watershed district must conform to chapter 103E, except for repairs and maintenance done pursuant to section 103D.621, subdivision 4.

**History:** 1995 c 199 s 37,38

### 103D.631 MAINTENANCE OF PROJECTS.

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Maintenance fund.** (a) The cost of normal or routine maintenance of the projects of the watershed district, and the cost of removing obstructions and accumulations of foreign substances from a drainage system, shall be paid from the maintenance fund on the order of the managers.

(b) The managers may assess all the parcels of property and municipal corporations previously assessed for benefits in proceedings for the construction or implementation of the project, to establish a maintenance fund for the project. The assessment must be made pro rata according to benefits determined. An assessment for the benefit of the maintenance fund may not be made when the fund exceeds 20 percent of the original cost of construction or implementation of the project. The auditors of the affected counties shall file a tabular lien statement covering the assessment in the office of the county recorder for the county when the assessment order from the managers is received.

(c) The assessment shall be collected as provided in the order in the same manner as provided in section 103E.731.

(d) Before ordering the levy of an assessment for the benefit of the maintenance fund, the managers may give notice of a hearing on making the assessment and establishing the maintenance fund.

**History:** 1995 c 199 s 39

### **103D.635 REPAIRS AND IMPROVEMENTS EXCEEDING NORMAL MAINTENANCE.**

Subdivision 1. **Technical and cost specifications.** The managers shall order the engineer to prepare and submit to the managers technical and cost specifications on the work necessary to restore or improve the project to the desired level of operating efficiency before ordering repairs other than normal and routine maintenance if the engineer certifies to the managers, in the annual report or otherwise, that:

(1) a project of the watershed district is in such a state of disrepair that the project cannot be restored by normal and routine maintenance to the same condition as when it was originally constructed or subsequently improved;

(2) a ditch or channel must be widened or deepened; or

(3) a project of the watershed district must be altered or improved to attain the level of operating efficiency contemplated at the time of the original construction or implementation.

*[For text of subd 2, see M.S.1994]*

Subd. 3. **Assessment.** (a) The managers may order the repair or improvement and assess the cost against the benefited properties if, after a hearing, the managers find that the repair or improvement is in compliance with the plan, is necessary to accomplish the purposes of this chapter, and that the cost of the repair or improvement will not exceed its benefits. The cost of the repair or improvement shall be apportioned and assessed pro rata upon all property that was assessed for the construction or implementation of the project.

(b) A single levy for the repair or improvement may not exceed the amount of benefits originally determined. The managers shall file a copy of the order for levy with the auditor of each affected county. The auditor shall extend the levy against affected properties as in proceedings for the levy, assessment, and collection of assessments in drainage proceedings conducted under sections 103E.601 to 103E.631.

**History:** 1995 c 199 s 40,41

### **103D.705 PROJECT PETITION.**

Subdivision 1. **Requirements.** A project within the watershed district that generally conforms with the watershed management plan may be initiated by a project petition. A project petition must contain:

(1) a description of the proposed project and the purpose to be accomplished;

(2) a description of the property where the proposed project passes over or is located;

(3) a general description of the part of the watershed district that will be affected, if less than the entire watershed district;

(4) the necessity for the proposed project;

(5) a statement that the proposed project will be conducive to public health, convenience, and welfare; and

(6) a statement that the petitioners will pay all costs and expenses that may be incurred if the proceedings are dismissed or a construction or implementation contract is not awarded for the proposed project.

*[For text of subs 2 to 4, see M.S.1994]*

**History:** 1995 c 199 s 42

### **103D.711 ENGINEER'S REPORT.**

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Requirements.** (a) The engineer's report must include findings and recommendations about the proposed project. If the engineer finds the project feasible, the engineer must provide a plan of the proposed project as part of the report. The plan must include:

(1) a map of the project area, drawn to scale, showing the location of the proposed improvements, if any;

(2) the estimated total cost of completing the project including construction, operation, implementation, supervision, and administrative costs;

(3) the acreage required as right-of-way listed by each lot and 40-acre tract or fraction of the lot or tract under separate ownership, if required to implement the project; and

(4) other details and information to inform the managers of the practicability and necessity of the proposed project with the engineer's recommendations on these matters.

(b) The map of the area must include:

(1) the location and adequacy of the outlet, if the project is related to drainage;

(2) the watershed of the project area;

(3) the location of existing highways, bridges, and culverts;

(4) the property, highways, and utilities affected by the project with the names of the known property owners;

(5) the location of public land and water affected by the project; and

(6) other physical characteristics of the watershed necessary to understand the area.

*[For text of subs 3 to 8, see M.S.1994]*

**History:** 1995 c 199 s 43

### 103D.715 APPRAISERS.

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. Duties.** The appraisers shall with or without the engineer determine the benefits and damages to property affected by the proposed project, including property owned by the state or a state agency, highways, and other property likely to be affected by the proposed project or that may be used or taken for construction, implementation, or maintenance.

**Subd. 4. Benefits and damages to state land.** For all watershed district projects, benefits and damages to property owned by the state or a state agency, held and used for the purposes described in sections 103E.025 and 103E.315, subdivision 1, must be determined using the procedure provided in sections 103E.025 and 103E.315, subdivision 1. If a state permit is required from the commissioner to construct the project, state land may not be taken, damaged, or benefited until the permit is issued.

*[For text of subd 5, see M.S.1994]*

**History:** 1995 c 199 s 44,45

### 103D.721 DETERMINATION OF BENEFITS AND DAMAGES BY MANAGERS.

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Determination.** After the engineer's report is filed, the managers, with the assistance of the engineer, shall determine the benefits or damages to the property affected by the proposed project, including property owned by the state or a state agency, highways, and other property likely to be affected by the proposed improvement or that may be used or taken for construction, implementation, or maintenance.

**Subd. 3. State property.** For all watershed district projects, benefits and damages to property owned by the state or a state agency that is held and used for the purposes described in sections 103E.025 and 103E.315, subdivision 1, shall be determined using the procedure provided in sections 103E.025 and 103E.315, subdivision 1. If a state permit is required from the commissioner to construct the project, state land may not be taken, damaged, or benefited until the permit is issued.

*[For text of subd 4, see M.S.1994]*

**History:** 1995 c 199 s 46,47

### 103D.741 HEARING NOTICE.

Subdivision 1. **Published final hearing notice.** The managers shall give notice by publication of the final hearing. The final hearing notice must contain:

- (1) a statement of the pendency of the petition or resolution;
- (2) the time and place for hearing;
- (3) a statement that the engineer's report and appraisers' report, including the plans, have been filed with the managers and are subject to inspection;
- (4) a brief description of the proposed project;
- (5) a description of the properties benefited or damaged, the names of the owners of the properties, the public and other corporations affected by the project as shown by the engineer's report and appraisers' report or may include a map of the affected area in lieu of the names of the owners and of the descriptions of the properties affected by the project; and
- (6) a statement requiring all parties interested in the proposed project to appear before the managers at the time and place designated in the final hearing notice to present objections, and to show why an order should not be made by the managers granting the petition, confirming the reports of the engineer and appraisers, and ordering the establishment and construction or implementation of the project.

*[For text of subs 2 to 4, see M.S.1994]*

**History:** 1995 c 199 s 48

### 103D.745 FINAL HEARING.

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Modification of reports.** (a) The managers may order and direct the modification of:

- (1) the engineer's report within the scope of the watershed management plan for the watershed district;
- (2) the assessment of benefits and damages; and
- (3) amendment or change of the list of property reported as assessable for construction or implementation and maintenance.

(b) If the amended engineer's report and appraisers' report includes property not included in the original reports, the managers shall adjourn the hearing and have an amended notice published and mailed with the proper reference to all property as amended by the managers.

Subd. 3. **Establishment of project.** (a) The managers shall make findings, order and direct construction or implementation of the project, and confirm the engineer's report and the findings of the appraisers and the appraisers' report if, at the end of the final hearing, the managers find that the project will:

- (1) be conducive to public health;
- (2) promote the general welfare;
- (3) be in compliance with this chapter; and
- (4) result in benefits that will be greater than the cost of the construction or implementation and damages.

(b) The order may authorize the construction or implementation of the project as a whole or authorize different parts of the project to be constructed separately.

(c) The managers shall order the engineer to proceed with making the necessary surveys and preparing plans and specifications that are needed to construct the project and report the results of the surveys and plans to the managers.

*[For text of subd 4, see M.S.1994]*

**History:** 1995 c 199 s 49,50

**103D.811 BIDS FOR CONSTRUCTION.**

Subdivision 1. **Call for bids.** After an establishment order has been made by the managers directing the establishment of a project, the managers shall call for bids for the construction or implementation of the work and give notice by publication specifying the time and place when the bids will be opened for awarding a contract for the construction or implementation of the project. The contract may be awarded in sections or as a whole, as directed by the managers.

*[For text of subd 2, see M.S.1994]*

Subd. 3. **Awarding of contract.** (a) At a time and place specified in the bid notice, the managers may accept or reject any or all bids and may award the contract to the lowest responsible bidder. The bidder to whom the contract is to be awarded must give a bond, with ample security, conditioned by satisfactory completion of the contract.

(b) Bids must not be considered which in the aggregate exceed by more than 30 percent the total estimated cost of construction or implementation.

(c) The contract must be in writing and be accompanied by or refer to the plans and specifications for the work to be done as prepared by the engineer for the watershed district. The plans and specifications shall become a part of the contract.

(d) The contract shall be approved by the managers and signed by the president, secretary, and contractor.

**History:** 1995 c 199 s 51,52

**103D.901 ASSESSMENTS, LEVIES.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **County funding.** After the assessment statement is filed with the auditor, the county board of each affected county shall provide funds to meet its proportionate share of the total cost of the project, as shown by the engineer's report and order of the managers. The county may issue bonds of the county in the manner provided by section 103E.635. If an improvement is to be constructed under section 103D.611, the provisions of section 103E.635 requiring the county board to award a contract for construction or implementation before issuing bonds is not applicable to bonds issued to provide the funds required to be furnished by this section.

*[For text of subd 3, see M.S.1994]*

Subd. 4. **Assessment may not exceed benefits.** (a) An assessment may not be levied against property or corporations benefited under this chapter in excess of the amount of benefits received as set by the order of the managers authorizing the construction or implementation of the project or subsequently determined on appeal.

(b) If the damages for a project financed by special assessment are awarded and confirmed, the managers must determine that the project's benefits exceed the total costs, including damages awarded.

(c) The managers shall amend the project's statement filed with the county auditor to reflect the amount of damages awarded.

Subd. 5. **Damages paid before entering property.** Before entering property for which damages were awarded to begin construction or implementation of the project, the managers shall pay the amount of damages awarded less any assessment against the property from the funds provided by the county board under subdivision 3. If the amount of damages is appealed, damages may not be paid until the final determination of the appeal.

**History:** 1995 c 199 s 53-55

**103D.905 FUNDS OF WATERSHED DISTRICT.**

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. **Administrative fund.** An administrative fund, consisting of an ad valorem tax levy, may not exceed 0.02418 percent of taxable market value, or \$125,000, whichever is

less. The money in the fund shall be used for general administrative expenses and for the construction or implementation and maintenance of projects of common benefit to the watershed district. The managers may make an annual levy for the administrative fund as provided in section 103D.911. In addition to the annual administrative levy, the managers may annually levy a tax not to exceed 0.00798 percent of taxable market value for a period not to exceed 15 consecutive years to pay the cost attributable to the basic water management features of projects initiated by petition of a municipality of the watershed district.

*[For text of subd 4, see M.S.1994]*

**Subd. 5. Construction or implementation fund.** (a) A construction or implementation fund consists of:

(1) the proceeds of the sale of county bonds;

(2) construction or implementation loans from any agency of the federal government; and

(3) special assessments to be levied to supply funds for the construction or implementation of the projects of the watershed district, including reservoirs, ditches, dikes, canals, channels, and other works, and the expenses incident to and connected with the construction or implementation.

(b) Construction or implementation loans from an agency of the federal government may be repaid from money collected by special assessments on properties benefited by the project.

*[For text of subs 6 to 8, see M.S.1994]*

**History:** 1995 c 199 s 56,57

### 103D.921 DISTRICT COURT TO CREATE PRELIMINARY FUND.

Subdivision 1. **Petition.** (a) If a petition has been filed with the managers for the construction or implementation of a project within the watershed district, the managers may file a petition with the district court in the county where the watershed district has its principal place of business asking that a preliminary expense fund be created for the watershed district.

(b) The managers may subsequently amend or supplement the petition if necessary. At least ten days' notice of a petition or amended or supplementary petition must be given to the auditor of each county affected by the proposed project.

(c) The preliminary fund must be of a size that is proportionate to the needs of the watershed district for preliminary work on the proposed project.

*[For text of subd 2, see M.S.1994]*

**Subd. 3. Use of fund.** The preliminary fund must be used by the managers for preliminary work. If the managers incur expenses for surveys or other preliminary work on a proposed project, all expenses connected with the work shall be included in the cost of construction or implementation of the proposed project. If construction or implementation of the project is authorized by the managers, the money advanced from the preliminary fund shall be repaid from assessments for the project.

*[For text of subs 4 and 5, see M.S.1994]*

**History:** 1995 c 199 s 58,59

### 103D.925 WARRANTS.

The managers may issue warrants of the watershed district to pay contracts for the construction or implementation of projects, ordinary general expenses, and expenses incurred in making repairs that have been approved by the managers, only if there are sufficient funds available for payment in the watershed district treasury.

**History:** 1995 c 199 s 60