

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.

Subd. 2. **Hearing notice.** (a) The managers shall hold a public hearing on the proposed contract following publication of the hearing notice.

(b) The hearing notice must be published once each week for two successive weeks before the date of the hearing in a legal newspaper published in the counties where a part or all of the affected waters and lands are located. The last publication must occur at least ten days before the hearing. The notice must state the time and place of hearing, the general nature of the proposed improvement, its estimated cost, and the area proposed to be assessed.

(c) At least ten days before the hearing, notice must be mailed to each resident owner, as shown on the county auditor's most recent records maintained for taxation purposes, within the area proposed to be assessed, and to the director, and to each public body within the area to be assessed and likely to be affected. Failure to give mailed notice or defects in the notice do not invalidate the proceedings.

Subd. 3. **Hearing.** At the time and place specified in the notice, the managers shall hear all interested parties for and against the proposed project. All questions relative to the project must be determined on evidence presented at the hearing. If the managers find that the project will be conducive to public health and will promote the general welfare, and that it complies with this chapter, the managers shall make findings accordingly, authorize the project, and make the proposed contract or other arrangement.

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.

Subd. 6. Assessments and levies. Proceedings for assessments and levies may be brought under section 103D.901 after the managers file a statement with the auditor of a county that lists the property and corporations benefited or damaged or otherwise affected by a project as found by the appraisers and approved by the managers.

Subd. 7. Normal project initiation does not apply. Section 103D.701 relating to project initiation does not apply to projects of the watershed district constructed under contract as provided in this section.

Subd. 8. Acquisition of property. (a) If the watershed district is required to acquire an interest in real property under this section or convey an interest in real property to the federal government, the managers shall, before the filing of the appraisers' report, record a notice of the pendency of a proceeding initiated by the managers to acquire the lands to be conveyed to the federal government. The notice of pendency must be recorded in the office of the county recorder of the affected county. The notice must state the purpose for which the lands are to be taken.

(b) By 20 days before the hearing on the appraisers' report, in addition to the notice required by subdivision 2, the notice of the hearing must be served on the owners of the property to be acquired, in the same manner as the summons in a civil action. The notice must:

- (1) describe the property;
- (2) state by whom and for what purpose the property is to be taken;
- (3) give the names of all persons appearing of record or known to the managers to be the owners;
- (4) state that appraisers have been appointed as provided by subdivision 4, to determine the benefits and damages; and
- (5) state that a hearing will be held by the managers on the appraisers' report at the time and place specified in the notice.

(c) After the managers have confirmed the appraisers' report listing the property to be benefited or damaged as provided in subdivision 5, the managers have all rights of possession and entry conferred in other cases of condemnation by chapter 117.

(d) After confirmation of the appraisers' report, the attorney for the managers shall make a certificate describing the property taken and the purpose for the taking, and reciting the fact of

payment of all awards determined by the appraisers appointed by the managers or judgments in relation to the land. When approved by the managers, the certificate establishes the right of the watershed district in the property taken. The certificate must be filed for record with the county recorder of the county where the property is located. The filing constitutes notice to all parties of the title of the watershed district to the property described in the certificate.

(e) After the certificate is filed, the managers may convey the property and interests in the property acquired to the federal government, if necessary.

History: *1990 c 391 art 4 s 46; 1995 c 199 s 33-35*