

## CHAPTER 103C

## SOIL AND WATER CONSERVATION DISTRICTS

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## GENERAL PROVISIONS

**103C.001 EFFECT OF CHAPTER 103C ON WATER LAW.**

This chapter and chapters 103A, 103B, 103D, 103E, 103F, and 103G constitute the water law of this state and may be cited as the water law.

**History:** 1990 c 391 art 3 s 1

**103C.005 SOIL AND WATER CONSERVATION POLICY.**

Improper land use practices have caused serious wind and water erosion of the land of this state, the runoff of polluting materials, increased costs to maintain agricultural productivity, increased energy costs and increased flood damage. Land occupiers have the responsibility to implement practices to correct these conditions and conserve the soil and water resources of the state. It is the policy of the state to encourage land occupiers to conserve soil and water resources through the implementation of practices that effectively reduce or prevent erosion, sedimentation, siltation and agriculturally related pollution in order to preserve natural resources, ensure continued soil productivity, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, and protect public lands.

**History:** 1990 c 391 art 3 s 2

**103C.009 CITATION.**

This chapter may be cited as the "soil and water conservation district law."

**History:** 1990 c 391 art 3 s 3

**103C.101 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Appropriate agencies.** "Appropriate agencies" means local, state, or federal agencies that possess expertise, involvement, or authority concerning the use and development of land and water resources, but does not include districts or the state board.

Subd. 3. **District.** "District" means a soil and water conservation district.

Subd. 4. **District board.** "District board" means the board of supervisors of a soil and water conservation district.

Subd. 5. **Due notice.** "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a legal newspaper, and by posting at three conspicuous places within an appropriate area. Posting must include, if possible, posting at public places where it is customary to post notices concerning county or municipal affairs. A hearing held pursuant to a notice at the time and place designated in the notice may be adjourned, from time to time, without renewing the notice for the adjourned dates.

Subd. 6. **Federal.** "Federal" means the United States, the soil conservation service of the United States Department of Agriculture, and agencies or instrumentalities, corporate or otherwise, of the United States.

Subd. 7. **Government.** "Government" means the state or the United States, or an agency or instrumentality of the state or the United States.

Subd. 8. **Land occupier.** "Land occupier" means a person, corporation, or legal entity that holds title to or is in possession of land within a district as an owner, lessee, tenant, or otherwise.

Subd. 9. **Nominating petition.** "Nominating petition" means a petition filed under sections 103C.301, subdivision 1, and 103C.305, subdivision 2, to nominate candidates for the office of supervisor.

Subd. 10. **Soil and water conservation district.** "Soil and water conservation district" means a governmental subdivision organized under this chapter.

Subd. 11. **State agency.** "State agency" means a political subdivision, agency, or instrumentality, corporate or otherwise, of the state.

Subd. 12. **State board.** "State board" means the board of water and soil resources.

Subd. 13. **Supervisor.** "Supervisor" means a member of a district board.

Subd. 14. **Watershed project.** "Watershed project" means a project that is approved and authorized to be carried out by the district in a watershed area in accordance with a watershed work plan.

Subd. 15. **Watershed work plan.** "Watershed work plan" means a plan for constructing works of improvement in a watershed area, including structural and land treatment measures for flood prevention or the conservation, development, utilization, and disposal of water that is developed by the district, with or without federal assistance.

*History: 1990 c 391 art 3 s 4*

## SOIL AND WATER CONSERVATION DISTRICTS

### 103C.201 FORMATION OF SOIL AND WATER CONSERVATION DISTRICTS.

Subdivision 1. **Petition.** (a) Twenty-five land occupiers in an area proposed to be organized into a district may file a petition with the state board requesting that a soil and water conservation district be organized to function in the area described in the petition. The petition must state:

- (1) the proposed name of the district;
  - (2) that there is need, in the interest of the public health, safety, and welfare, for a district in the described area;
  - (3) a description of the area proposed to be organized as a district, which need not be by metes and bounds or legal subdivision, but may be by general description that identifies the area;
  - (4) a request that the state board define the boundaries for the district;
  - (5) a request for a referendum to be held in the defined territory on the question of the creation of a district in the territory; and
  - (6) a request by the state board to determine that a district be established.
- (b) If more than one petition is filed covering parts of the same area, the state board may consolidate the petitions.

Subd. 2. **Hearings.** (a) By 30 days after a petition has been filed with the state board, the state board may give due notice of a proposed hearing, to be held by the state board or a designated agent, on:

- (1) the question of the desirability and necessity, in the interest of the public health, safety, and welfare, for the establishment of a district;
- (2) the appropriate boundaries of the district;
- (3) the propriety of the petition and other proceedings taken under this section; and
- (4) other questions relevant to clauses (1), (2), and (3).

(b) Land occupiers in the area described in the petition and in the area considered for addition to the described area and other interested parties may attend the hearing and be heard. If after a hearing, the state board determines it may be desirable to include in the proposed district area outside the area where notice of the hearing was given, the hearing must be adjourned and due notice of the continued hearing must be given throughout the entire area considered for inclusion in the district, and the continued hearing held.

**Subd. 3. Considerations for district establishment.** (a) After the hearing is complete, if the state board determines, on the information presented at the hearing and other relevant information, that there is a need, in the interest of the public health, safety, and welfare, for a district to function in the area considered at the hearing, the state board shall make and record the determination and define the district boundaries by metes and bounds or by legal subdivisions. In making the determination and in defining the boundaries, the state board shall consider the public policy in section 103A.206, and:

- (1) the topography of the area considered and of the state;
  - (2) the composition of its soils;
  - (3) the distribution of erosion;
  - (4) the prevailing land use practices;
  - (5) the desirability and necessity of including within the boundaries the particular lands under consideration;
  - (6) the benefits the lands may receive from being included;
  - (7) the relation of the proposed area to existing watersheds and agricultural regions and other soil and water conservation districts organized or proposed for organization; and
  - (8) other relevant physical, geographical, and economic factors.
- (b) The area included in a district need not be contiguous.

**Subd. 4. Denial of petition.** (a) If the state board determines, after the hearing and consideration of the information, that there is not a need for a district to function in the area, the state board must make and record the determination and deny the petition.

(b) Subsequent petitions to establish a district in substantially the same area may not be filed until six months after the date of the denial of a petition.

**Subd. 5. Referendum for district establishment.** (a) After the state board has made and recorded a determination that there is a need for a district in a particular area and has defined the boundaries, the state board shall consider whether the operation of a district within the boundaries is administratively feasible. To assist the state board to determine the feasibility, the state board shall, within a reasonable time after entry of the finding that there is a need for the proposed district, give notice of and hold a referendum within the proposed district on the creation of the district.

(b) The question shall be submitted by ballots with:

(1) the words printed "For creation of a soil and water conservation district of the lands described below in the county (or counties) of ..... and ....." and "Against establishment of a soil and water conservation district of the lands described below in the county (or counties) of ..... and ....." ;

(2) a square before each proposition and a direction to insert an X mark in the square before one proposition or the other as the voter may favor or oppose establishment of the district; and

(3) the boundaries of the proposed district.

(c) Only land occupiers in the boundaries of the proposed district, as determined by the state board, may vote in the referendum.

**Subd. 6. Administration of referendum.** The state board shall pay the expenses for the notices and the conduct of the hearing and referendum, and supervise their conduct. The state

board shall issue rules governing the conduct of hearings and referenda, and providing for the registration, before the date of the referendum, of all eligible voters, or prescribing some other appropriate procedure to determine eligible voters. Informalities in the conduct of a referendum or in a matter related to it do not invalidate the referendum or its result if notice of it has been given substantially as provided by this section and the referendum has been fairly conducted.

**Subd. 7. Determination after referendum.** (a) The state board shall publish the result of the referendum and then determine whether the operation of a district in the defined boundaries is administratively feasible. In making the determination, the state board must consider the policy in section 103A.206, and:

- (1) the attitudes of the land occupiers in the defined boundaries;
  - (2) the number of land occupiers eligible to vote in the referendum who have voted;
  - (3) the proportion of the votes cast in the referendum in favor of establishing the district to the total number of votes cast;
  - (4) the approximate wealth and income of the land occupiers of the proposed district;
  - (5) the probable expense of carrying on erosion-control operations within the district;
- and

(6) other relevant economic and social factors. The state board may not determine that the operation of the proposed district within the defined boundaries is administratively feasible unless a majority of the votes cast in the referendum on establishment of the district have been cast in favor of establishing the district.

(b) If the state board determines that the operation of the district is not administratively feasible, the state board shall record the determination and deny the petition. Six months after the date of entry of a determination by the state board that operation of a proposed district is not administratively feasible, a new petition may be filed and a new proceeding started.

(c) If the state board determines that the operation of the district is administratively feasible, it shall record the determination and proceed with the establishment and organization of the district.

**Subd. 8. Application by supervisors to secretary of state.** (a) The district shall be a governmental subdivision of this state and a public body corporate and politic after the actions in this subdivision are taken.

(b) If the state board determines that the operation of the proposed district within the defined boundaries is administratively feasible, the state board must appoint two supervisors to act, with the three elected supervisors, as the district board.

(c) The two appointed supervisors shall sign and present an application to the secretary of state with the following recitals:

- (1) a petition for the establishment of a district was filed with the state board;
- (2) the proper proceedings were taken relating to the petition;
- (3) the application is being filed to complete the organization of the district as a governmental subdivision and a public body, corporate or politic;
- (4) the state board has appointed the signers as supervisors;
- (5) the name and official residence of each supervisor, with a certified copy of the supervisor's appointment;
- (6) the term of office of each supervisor;
- (7) the name proposed for the district; and
- (8) the location of the principal office of the district board.

(d) The application shall be subscribed and sworn to by each supervisor before an officer authorized by state law to take oaths. The officer shall certify upon the application that the officer has personal knowledge of the supervisors, that they are the supervisors named in the application, and that each supervisor has signed the application in the officer's presence.

**Subd. 9. Certified statement of state board.** (a) The application shall be accompanied by a certified statement of recitals by the state board, that:

- (1) a petition was filed, notice issued, and hearing held;
- (2) the state board determined that there is need, in the interest of the public health, safety, and welfare, for a district to function in the proposed area;

- (3) the state board defined the district's boundaries;
  - (4) notice was given and a referendum held on the question of establishing a district;
  - (5) a majority of the votes cast in the referendum were in favor of establishing a district;
- and

(6) after the referendum the state board determined that the operation of the proposed district is administratively feasible.

(b) The certified statement shall prescribe the boundaries of the district as defined by the state board.

**Subd. 10. Secretary of state's certificate.** (a) The secretary of state shall examine the application of the supervisors and certified statement of the state board and, on finding that the name proposed for the district is not identical to the name of another district in the state, and is not so similar as to lead to confusion or uncertainty, the secretary of state shall receive, file, and record the application and statement.

(b) If the secretary of state finds that the name proposed for the district is identical with the name of another district, or so similar as to lead to confusion and uncertainty, the secretary of state shall certify the fact to the state board. The state board shall submit to the secretary of state a new name for the district that does not have the defect. Upon receipt of a new name, free of defect, the secretary of state shall record the application and statement, with the new name.

(c) After the application and statement have been made, filed, and recorded, the district is a governmental subdivision of the state.

(d) The secretary of state shall issue to the supervisors a certificate, under the seal of the state, of the organization of the district and record the certificate with the application and statement.

(e) The boundaries of the district consist of the area determined by the state board but may not include area in another district. The area of a home rule charter or statutory city within the boundaries of a district is included in the district. If there is a question of whether an area is within or outside of a district, the state board shall determine whether the area of a city is included.

**Subd. 11. Certificate of organization as evidence.** In a suit, action, or proceeding involving the validity of, enforcement of, or relating to, a contract, proceeding, or action of a district, the district is considered to have been established in accordance with this section upon proof of the issuance of the certificate by the secretary of state. A copy of the certificate, certified by the secretary of state, is admissible in evidence in the suit, action, or proceeding and is proof of its filing and contents.

**History:** 1990 c 391 art 3 s 5

### 103C.205 ANNEXING ADDITIONAL AREA.

(a) Land occupiers may file a petition to include additional area within an existing district with the state board. The procedure for a petition to establish a district shall be followed on a petition to include additional area. The state board shall prescribe the form for the petition, which shall be as nearly as possible in the form for a petition to organize a district.

(b) If the number of land occupiers in the area proposed for inclusion is less than 25, the petition may be filed when signed by a majority of the land occupiers in the area and a referendum need not be held.

(c) In a referendum to include additional area, all land occupiers within the proposed additional area may vote.

(d) It is not necessary to obtain the consent of the owners within the district before the additional area is annexed to a district.

**History:** 1990 c 391 art 3 s 6

### 103C.211 CONSOLIDATION AND DIVISION OF DISTRICTS.

(a) A petition to consolidate two or more districts or to separate a district into two or more districts may be filed with the state board by 25 or more land occupiers within the af-

affected districts. It is not necessary to obtain the consent of fee owners in an established district before districts are consolidated or an existing district is divided. Proceedings provided for petitions to organize a district shall be followed as far as they are applicable. The state board shall prescribe the form for a petition, which shall be as nearly as possible in the form for petitions to organize a district.

(b) The land occupiers within the affected districts may vote in the referendum. The state board may not determine the administrative feasibility of consolidating or separating districts unless a majority of the votes cast in the referendum within each separate district affected, or within each separate area sought to be made a separate district, is in favor of the consolidation or separation.

(c) When districts are consolidated or separated, the corporate existence and terms of office of the officers of the old districts expire upon the issuance and recording by the secretary of state of a certificate of organization of the new districts. Upon consolidation, the rights and liabilities of the consolidating districts shall be assumed by the consolidated district. Upon separation, the rights and liabilities of the original district shall be vested in and assumed by the new districts in an equitable proportion determined by the state board. A separation does not affect the term of office for which a supervisor was elected or appointed. The supervisor shall continue to represent the district where the supervisor resides for that full term.

**History:** 1990 c 391 art 3 s 7

#### 103C.215 CHANGE OF NAME.

The name of a district may be changed with the approval of the state board, after the adoption of a resolution by a majority of the supervisors stating the new name, by filing a certified copy of the resolution with the secretary of state.

**History:** 1990 c 391 art 3 s 8

#### 103C.221 CHANGE OF LOCATION OF PRINCIPAL OFFICE.

The location of the principal office of the district board may be changed with the approval of the state board after the adoption of a resolution by a majority of the district board stating the new location and by filing a certified copy of the resolution with the secretary of state.

**History:** 1990 c 391 art 3 s 9

#### 103C.225 DISCONTINUANCE OF DISTRICTS.

**Subdivision 1. Petition for termination.** (a) After five years after the organization of a district, 25 occupiers of land in the district may file a petition with the state board asking that the operations and existence of the district be terminated.

(b) The state board may not receive a petition, conduct a referendum, or make a determination on a petition to discontinue a district more often than once in two years.

**Subd. 2. Hearings.** The state board may conduct public meetings and public hearings upon the petition as necessary to assist in consideration of the petition.

**Subd. 3. Referendum.** (a) Within 60 days after the petition is received by the state board, it shall give due notice of the holding of a referendum, supervise the referendum, and issue appropriate regulations governing the conduct of the referendum.

(b) The question shall be submitted by ballots, upon which the words "For terminating the existence of the ..... (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the soil and water conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other.

(c) Only land occupiers in the district may vote in the referendum.

(d) Informalities in the conduct of the referendum or matters relating to the referendum do not invalidate the referendum, or result of the referendum, if due notice has been given and the referendum has been fairly conducted.

(e) The state board shall publish the result of the referendum.

**Subd. 4. Determination by state board.** (a) The state board shall determine whether the continued operation of the district board is administratively feasible and give consideration to the public policy under section 103A.206, and:

(1) the attitudes of the occupiers of lands lying within the district;

(2) the number of land occupiers eligible to vote in the referendum who have voted;

(3) the proportion of the votes cast in the referendum in favor of the discontinuance of the district to the total number of votes cast;

(4) the approximate wealth and income of the land occupiers of the district;

(5) the probable expense of carrying on erosion-control operations within the district;

and

(6) other economic and social factors relevant to the determination.

(b) If the state board determines that the continued operation of the district is administratively feasible, the state shall record the determination and deny the petition.

(c) If the state board determines that the continued operation of the district is not administratively feasible, the state board shall record the determination and certify the determination to the district board. The state board may not determine that the continued operation of the district is administratively feasible unless at least a majority of the votes cast in the referendum have been cast in favor of continuance.

**Subd. 5. Termination of district affairs.** Upon receipt from the state board of a certification that the state board has determined that the continued operation of the district is not administratively feasible, the district board shall promptly terminate the affairs of the district. The district board shall dispose of all property belonging to the district at public auction and pay the proceeds into the state treasury.

**Subd. 6. Application to secretary of state.** The district board shall then file a verified application with the secretary of state to discontinue the district with the certificate of the state board setting forth its determination that the continued operation of the district is not administratively feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid as provided in this section, and set forth a full accounting of the property and proceeds.

**Subd. 7. Certificate of dissolution.** The secretary of state shall issue to the district board a certificate of dissolution and record the certificate in the secretary of state's office.

**Subd. 8. Effect of dissolution.** Upon issuance of the certificate of dissolution, the ordinances and regulations in force in the district are of no further force. All contracts entered into, to which the district or district board were parties, shall remain in force and effect for the period provided in the contracts. The state board shall be substituted for the district or district board as party to the contracts and succeed to the district's rights and duties.

**History:** 1990 c 391 art 3 s 10

### 103C.231 COOPERATION BETWEEN DISTRICTS AND OTHER PUBLIC AGENCIES.

**Subdivision 1. Cooperation with other agencies.** (a) The district boards of two or more districts may cooperate with one another or with appropriate agencies to exercise powers conferred in this chapter or sections 103F.401 to 103F.455.

(b) The district board may make contracts or other arrangements with:

(1) the federal government;

(2) persons or public or private corporations; and

(3) the government of this state or other states.

(c) A soil and water conservation district may join or cooperate by agreement as provided in section 471.59 with another soil and water conservation district or a watershed district, or a governmental unit defined in section 471.59, or with a combination of them in an operation or project in which the soil and water conservation district and the other party have a common interest. For the purposes of this section, soil and water conservation districts and watershed districts are governmental units under section 471.59.

**Subd. 2. Cooperation among districts.** (a) If the improvement work unit covers two districts, a joint board made up of three supervisors from each of the district boards shall preside. If the improvement work unit covers three or more districts, a joint board made up of two supervisors from each district board shall preside. The individual boards shall appoint the supervisors to represent them on the joint board.

(b) The joint board shall accept and approve initial requests for improvement work units, direct the preparation of preliminary surveys and studies, establish improvement work units, and, at the direction of the county boards, adopt programs and reports, award contracts, supervise construction, and accept completed construction work.

**History:** 1990 c 391 art 3 s 11

### **103C.235 STATE AGENCIES TO COOPERATE.**

State agencies which have jurisdiction over or administer state-owned lands, and agencies of a county, or other governmental subdivision, that have jurisdiction over or administer county-owned or other publicly owned lands that are in a district, shall cooperate with the district boards to implement programs and operations undertaken by the district board under this chapter and sections 103F.401 to 103F.455. The district board shall have free access to enter and perform work on the affected lands.

**History:** 1990 c 391 art 3 s 12

## **DISTRICT BOARDS**

### **103C.301 INITIAL ELECTION OF SUPERVISORS.**

**Subdivision 1. Nominating petitions.** Within 30 days after the date that the secretary of state issues a certificate of organization of a district, or during additional time as the state board may allow, nominating petitions may be filed with the state board nominating legal voters as candidates for election as supervisors. Two supervisors shall be elected for terms to expire on December 31 following the second general election after their initial election, and one for a term to expire on December 31 following the third general election after their initial election. Each petition must be signed by one or more legal voters of the district. If a person signs petitions nominating more than three candidates, the signature may not be counted on any petition.

**Subd. 2. Notice of election.** The state board shall give due notice of the time and place where the election will be held in the district and specify in the notice the names of all candidates and the terms for which they are nominated.

**Subd. 3. Ballots.** The state board shall prepare ballots for the election with the surnames of the candidates printed in alphabetical order for each term, a square before each name, and a direction to insert an X mark in the square before three names with different terms to indicate the voter's choice.

**Subd. 4. Voting.** All legal voters shall be eligible to vote at the election.

**Subd. 5. Election.** The three candidates who receive the highest numbers respectively of the votes cast for each of three positions at the election shall be the elected supervisors. In case of a tie, the election shall be determined by lot, under the direction of the state board. The state board shall supervise the election, pay expenses of the election, prescribe rules for the election, determine the eligibility of voters, and publish the results.

**Subd. 6. Elected supervisor term.** Except to fill a vacancy, supervisors shall be elected for six-year terms.

**History:** 1990 c 391 art 3 s 13

### **103C.305 GENERAL ELECTION OF SUPERVISORS.**

**Subdivision 1. Time for election.** Except for elections under section 103C.301 held after the organization of the district, elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary may not be held.



**Subd. 2. Filing for office; affidavit of candidacy.** A candidate for the office of supervisor shall file an affidavit of candidacy with the county auditor of the county in which the district office is located during the period provided for filing affidavits of candidacy for county offices in section 204B.09, subdivision 1. The county auditor accepting affidavits of candidacy shall forward copies of all affidavits filed by candidates for supervisor to the auditor of any other county in which the office is voted on.

**Subd. 3. Ballots.** Ballots shall be prepared by the county auditor. The names of candidates shall be placed on the "canary ballot" described in section 204D.11, subdivision 3.

**Subd. 4. Election.** Laws relating to elections for county office shall govern to the extent that they are consistent with this section and section 103C.311. The county auditor shall certify the result to the state board. If the district includes land in more than one county, the county auditor shall immediately certify to the state board the vote, as shown by the report of the county canvassing board, for candidates voted for in more than one county. In the latter case, the state board shall certify and publish the result.

**Subd. 5. Election within areas governed by Indian tribes.** In a district where a supervisor nomination district is entirely within lands of an American Indian tribe or band to which county election laws do not apply, a supervisor to represent the district shall be elected or appointed as provided by the governing body of the tribe or band.

**Subd. 6. Vacancy.** (a) If a vacancy occurs in the office of an elected supervisor, more than 60 days before the next general election, the district board shall fill the vacancy by appointment. The supervisor appointed shall hold office until December 31 following the next general election. A successor shall be elected at the general election following the appointment and hold office for the remainder of the term or for the next regular term, whichever is appropriate.

(b) If a vacancy occurs less than 60 days before the next general election, the district board shall fill the vacancy by appointment. The appointed supervisor shall hold office until the expiration of the term or until December 31 following the second succeeding general election, whichever is shorter. A successor shall be elected at the general election preceding expiration of the appointed term and hold office for the remainder of the term or for the next regular term, whichever is appropriate.

**History:** 1990 c 391 art 3 s 14; 1994 c 646 s 1

### 103C.311 FORMATION OF SUPERVISOR DISTRICTS.

(a) The district board, after two successive annual elections have been held, shall, with the approval of the state board, divide a district into five supervisor districts for purposes of nomination for election. At each election after the division, one or more supervisors shall be nominated from each supervisor district.

(b) If the boundary of a soil and water conservation district has been substantially changed by a division of the district, the district shall be divided into five supervisor districts for nomination purposes.

(c) This subdivision does not disqualify a supervisor during the term for which the supervisor was elected or nominated for election. Supervisors nominated from the supervisor districts shall be included on the ballot for election from the entire area included in the soil and water conservation district.

(d) A certified copy of the minutes or the resolution of the supervisors establishing supervisor districts must be promptly filed by the chair of the district board with the county auditor of the counties where the district is located and with the state board.

**History:** 1990 c 391 art 3 s 15

### 103C.315 SUPERVISORS.

**Subdivision 1. Members.** (a) The district board shall consist of five supervisors, elected or appointed as provided in sections 103C.201, subdivision 8, 103C.301, and 103C.305.

(b) Supervisors must be legal voters residing in the district.

**Subd. 2. Terms.** The two supervisors appointed by the state board upon the establishment of a district shall serve terms ending on December 31 following the next general election after their appointment. Their successors shall be elected for terms of six years.

A supervisor shall hold office until a successor is elected or appointed and has qualified. Vacancies in the office of supervisor appointed by the state board shall be filled by the state board.

**Subd. 3. Quorum.** A majority of the supervisors is a quorum and the concurrence of a majority in any matter is required for its determination except as otherwise expressly provided.

**Subd. 4. Compensation.** A supervisor shall receive compensation for services as the state board may determine, and may be reimbursed for expenses, including traveling expenses, necessarily incurred in the discharge of duties. A supervisor shall be reimbursed for the use of the supervisor's own automobile in the performance of duties at the rate per mile prescribed for state officers and employees.

**Subd. 5. Removal of supervisor.** A supervisor may be removed by the state board upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

**Subd. 6. Compatible offices.** The office of soil and water conservation district supervisor and the offices of mayor, clerk, clerk-treasurer, or council member in a statutory or home rule charter city of not more than 2,500 population contained in whole or in part in the soil and water conservation district are compatible offices and one person may hold both offices. The office of soil and water conservation district supervisor and the office of town clerk or town supervisor in a town of not more than 2,500 population contained in whole or in part in the soil and water conservation district are compatible offices and one person may hold both offices. A person holding both offices shall refrain from voting or taking any other formal action on any matter coming before the soil and water conservation district board or the city council or town board that has a substantial effect on both the soil and water conservation district and the city or town. This subdivision does not apply to an office located in whole or in part in Anoka, Hennepin, Ramsey, or Washington county.

**History:** 1990 c 391 art 3 s 16; 1995 c 222 s 1

### 103C.321 OFFICERS AND EMPLOYEES.

**Subdivision 1. Officers.** (a) The supervisors shall elect or appoint officers for the district and the district board.

(b) A chair of the district board shall be elected from its own members.

(c) A secretary and a treasurer shall be appointed who need not be members of the board.

(d) Officers serve at the pleasure of the supervisors. Officers shall have the powers and duties incident to their respective offices, and other powers and duties expressly prescribed by law or directed by the district board.

**Subd. 2. Employees.** The district board may employ technical experts and other officers, agents, and employees, permanent and temporary, as they may require. The supervisors shall determine their qualifications, duties, and compensation.

**Subd. 3. Employee and officer bonds.** The district board shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property.

**Subd. 4. Attorney.** The county attorney of the county where the major portion of the district is located or one otherwise employed by the board shall be the attorney for the district and its supervisors. The district board may call upon the county attorney for necessary legal counsel and advice and service.

**Subd. 5. Delegation of duties.** The district board may delegate to its chair or other officer, to one or more supervisors, or to one or more agents or employees the powers and duties they deem proper.

**History:** 1990 c 391 art 3 s 17

### 103C.325 RECORDS, AUDIT, INFORMATION TO STATE BOARD.

**Subdivision 1. Records.** The district board shall keep a full and accurate record of all proceedings and resolutions, regulations, and orders issued or adopted.

**Subd. 2. Audit.** The state auditor shall annually audit the books of the district and its supervisors, or, at the request of the district board, the state auditor may contract for an annual

audit by a certified public accountant. The state auditor may determine that an annual audit of a district is not necessary, in which case an audit shall be made at least every four years.

**Subd. 3. Information to state board.** The supervisors shall furnish to the state board, upon request, copies of the ordinances, rules, regulations, orders, contracts, forms, and other documents that they adopt or use, and other information concerning their activities as the state board requires in the performance of its duties under this chapter.

**History:** 1990 c 391 art 3 s 18

### 103C.331 POWERS OF DISTRICT BOARDS.

**Subdivision 1. General authority.** A soil and water conservation district is a governmental and political subdivision of this state, and a public body, corporate and politic, and has the following powers in addition to any others prescribed by law.

**Subd. 2. Advisory assistance.** The supervisors may invite the legislative body of a municipality or county in the district to designate a representative to advise and consult with the supervisors of the district on questions of program and policy that may affect the property, water supply, or other interests of the municipality or county.

**Subd. 3. Surveys, investigations, and research.** A district may conduct surveys, investigations, and research to identify the problems and preventive practices specified in section 103A.206. To avoid duplication of research activities, no district shall initiate any research program except in cooperation with a state agency or an agency of the United States.

**Subd. 4. Publication of information.** A district may publish its comprehensive plan and the results of its surveys, investigations, and research and may disseminate information to the public concerning any of its activities.

**Subd. 5. Demonstration projects.** A district may conduct demonstration projects within the district on lands owned or administered by a state agency, with the cooperation of the administering agency, and on other lands with the consent of the land occupier, to demonstrate practices which implement the state policy specified in section 103A.206.

**Subd. 6. Implementation of practices.** A district may implement any necessary practices within the district, including structural measures and works of improvement for any purpose specified in section 103A.206, methods of cultivation, the use of vegetation, and changes in use of land, on:

- (1) lands acquired by the district;
- (2) lands owned or administered by a state agency, with the cooperation of the administering agency; and
- (3) other lands, with the consent of the land occupier.

**Subd. 7. Implementation of soil and water conservation policy.** A district may cooperate or enter into agreements with and furnish financial or other aid to a land occupier or appropriate agency, to implement the policy specified in section 103A.206, within the district, subject to conditions the district board determines is necessary.

**Subd. 8. Acquisition and maintenance of property.** A district may acquire any rights or interests in real or personal property by option, purchase, exchange, lease, gift, grant, bequest, devise, or otherwise. It may maintain, operate, administer, and improve any properties acquired. It may receive income from the properties and expend the income to implement this chapter and sections 103F.401 to 103F.455. It may sell, lease, or otherwise dispose of any of its property or interests.

**Subd. 9. Use of machinery and supplies.** A district may make available, on terms it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and other material or equipment which will assist land occupiers to implement practices on their land specified in section 103C.005.

**Subd. 10. Construction of improvements.** A district may construct, install, improve, maintain, and operate structures and works necessary or convenient to perform an operation authorized under this chapter and sections 103F.401 to 103F.455.

**Subd. 11. Comprehensive plan.** (a) A district may develop and revise a comprehensive plan, specifying practices to implement the state policy specified in section 103A.206, including:

- (1) the construction, maintenance, and operation of structural measures;
- (2) methods of cultivation;
- (3) the use of vegetation;
- (4) cropping programs;
- (5) mechanical practices;
- (6) changes in use of land;
- (7) other land use, soil erosion reduction, and agricultural practices; and
- (8) related technical standards and specifications.

(b) The plan shall include a classification of the soil types within the district as determined by the Minnesota cooperative soil survey.

(c) The plan must identify the areas within the district where erosion, sedimentation, and related water quality problems appear most in need of control methods.

(d) The plan shall be consistent with the statewide framework water resources plan, the statewide water quality management plan, and the state board's soil and water program plan. The plan shall be prepared as required by the rules of the state board.

(e) By August 1 of each even-numbered year, each district which applies for cost-sharing funds under section 103C.501 shall submit to the state board an amendment of its comprehensive plan that identifies high priority erosion, sedimentation and water quality problems within the district as required by the rules of the state board.

(f) By August 1 of each year, each district that applies for cost-sharing funds under section 103C.501 shall submit to the state board an annual work plan for the high priority erosion, sedimentation, and water quality problems in the district. The work plan shall be prepared as required by the rules of the state board. In preparing the annual work plan, the district shall actively identify and seek out land occupiers with high priority erosion problems who have not participated in cost-sharing contracts and encourage their participation in programs to control their erosion problems.

**Subd. 12. Assumption of conservation projects.** (a) A district may take over by purchase, lease, or otherwise, and may improve, maintain, operate, and administer a soil or water conservation, erosion-control, erosion-prevention, watershed protection, flood prevention or flood control project in its boundaries undertaken by the United States or by a state agency.

(b) A district may accept donations, gifts, grants, or contributions in money, services, materials, or otherwise from the United States, a state agency or other source to accomplish the authorization in this section. A board may enter into a contract or agreement necessary or appropriate to accomplish the transfer. A board may use or expend money, services, materials, or other things to accomplish an authorized purpose.

**Subd. 13. Authority for suit and contracts.** A district may sue and be sued in its name, have perpetual succession unless terminated as provided in section 103C.225, make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and make, amend, or repeal rules and regulations consistent with this chapter and sections 103F.401 to 103F.455.

**Subd. 14. Compensation for work or projects.** As a condition for extending benefits for the performance of work upon lands not owned or administered by a state agency or the district, the supervisors may require compensation or contributions in money, services, materials, or otherwise, commensurate with the cost or reasonable value of the operations or work conferring the benefits.

**Subd. 15. Agreements for federal assistance.** (a) A district may submit an application and enter into an agreement or contract with the secretary of agriculture or other designated authority to obtain or use federal assistance under any law providing for federal assistance for an authorized purpose of the district.

(b) A district may:

- (1) acquire without cost to the federal government any land, easements, or rights-of-way needed in connection with works of improvement installed with federal assistance;

(2) assume the proportionate share of the cost of installing works of improvement involving federal assistance determined by the secretary or other designated authority to be equitable in consideration of anticipated benefits from the improvements;

(3) make arrangements satisfactory to the secretary or other authority to defray costs of operating and maintaining works of improvement in accordance with prescribed regulations;

(4) acquire or provide assurance that land occupiers have acquired the water rights and other rights, pursuant to state law, needed to install, maintain, and operate the works of improvement; and

(5) obtain agreements to carry out recommended soil and water conservation measures and prepare farm plans for owners of not less than 50 percent or other required percentage of the lands situated in a drainage area above a retention reservoir installed with federal assistance, as prescribed by applicable federal law, and may do any other acts necessary to secure and use federal aid.

**Subd. 16. Budget.** The district board shall annually present a budget consisting of an itemized statement of district expenses for the ensuing calendar year to the boards of county commissioners of the counties in which the district is located. The county boards may levy an annual tax on all taxable real property in the district for the amount that the boards determine is necessary to meet the requirements of the district. The amount levied shall be collected and distributed to the district as prescribed by chapter 276. The amount may be spent by the district board for a district purpose authorized by law.

**Subd. 17. Funds for state and national associations.** A district may appropriate funds to provide membership in state and national associations that have as their purpose the betterment and improvement of soil and water conservation district operations. A district may participate through designated representatives in the meetings and activities of the associations. A district may appropriate funds to defray the actual and necessary expenses of its representatives in connection with the associations' membership. The expenses may be paid only upon the presentation of a verified itemized claim.

**Subd. 18. Liability insurance.** A district may procure liability insurance as provided in section 466.06, automobile insurance on personal cars while used on official business, insurance on the contents of district offices, and workers' compensation insurance, or may require the counties in which the district is located to include the district in the counties' insurance coverage for these purposes.

**Subd. 19. Administration of official controls.** A district may, under a joint powers agreement under section 471.59, accept delegation from a county or city of authority to administer soil and water conservation-related official controls, as defined in section 103B.305, subdivision 7, of the county or city as specified in the agreement. The agreement must include provisions requiring that:

(1) all costs incurred by the district in administering the controls will be reimbursed by the county or city;

(2) the district will provide notice and hearing in the same instances that the county or city would; and

(3) the county or city will provide legal advice and support when requested by the district for administration and enforcement.

**History:** 1990 c 391 art 3 s 19; 1992 c 450 s 1

### **103C.335 TECHNICAL AND ADMINISTRATIVE ASSISTANCE TO DISTRICTS.**

At the request of local districts, the agricultural extension service of the University of Minnesota, county extension committees, and county extension agents shall:

(1) advise the districts in developing their comprehensive plan amendments and annual work plans;

(2) in cooperation with the districts and the soil conservation service of the United States Department of Agriculture, provide technical assistance and education to land occupiers about conservation tillage practices and other soil conservation practices; and

(3) participate in training district officials and employees in cooperation with the state board.

**History:** 1990 c 391 art 3 s 20

### DUTIES OF THE STATE BOARD

#### 103C.401 BOARD OF WATER AND SOIL RESOURCES.

Subdivision 1. **Powers and duties.** In addition to the powers and duties of the state board provided by other law, the state board shall:

(1) receive and disburse any grants made available to the state by the United States Department of Agriculture under the preferred program developed under United States Code, title 16, sections 2001 to 2009;

(2) offer to assist the district boards to implement their programs;

(3) keep the district boards of the state informed of the activities and experience of other districts and facilitate cooperation and an interchange of advice and experience among the districts;

(4) coordinate the programs and activities of the districts with appropriate agencies by advice and consultation;

(5) approve or disapprove the plans or programs of districts relating to the use of state funds administered by the state board;

(6) secure the cooperation and assistance of agencies in the work of the districts and develop a program to advise and assist appropriate agencies in obtaining state and federal funds for erosion, sedimentation, flooding, and agriculturally related pollution control programs;

(7) develop and implement a public information program concerning the districts' activities and programs, the problems and preventive practices relating to erosion control, sedimentation, agriculturally related pollution, flood prevention, and the advantages of formation of districts in areas where their organization is desirable;

(8) divide and consolidate districts without a hearing or a referendum to confine districts within county limits, without allowing a district, if feasible and practicable, to contain less than four full or fractional congressional townships;

(9) assist the statewide program to inventory and classify the types of soils in the state as determined by the Minnesota cooperative soil survey;

(10) identify research needs and cooperate with other public agencies in research concerning the nature and extent of erosion, sedimentation, flooding and agriculturally related pollution, the amounts and sources of sediment and pollutants delivered to the waters of the state, and long-term soil productivity;

(11) develop structural, land use management practice, and other programs to reduce or prevent soil erosion, sedimentation, flooding, and agriculturally related pollution;

(12) develop a system of priorities to identify the erosion, flooding, sediment, and agriculturally related pollution problem areas that most need control systems; and

(13) ensure compliance with statewide programs and policies established by the state board by advice, consultation, and approval of grant agreements with the districts.

Subd. 2. **Use of funds.** (a) Funds made available to a district from the state for expenditures necessary for its operations may be used only for purposes authorized by the state board.

(b) A district may designate the board of county commissioners to act as the agent of the district to receive and expend the funds at the direction and with the approval of the district board.

(c) At least annually the state board shall audit, in a manner it prescribes, the expenditure of the funds.

**History:** 1990 c 391 art 3 s 21

#### 103C.405 PROGRAM PLAN.

Subdivision 1. **Contents.** The state board shall prepare, in consultation with the districts and appropriate agencies, a program plan to accomplish its duties. The state board shall use

the program plan in decisions to allocate funds to districts. The state board shall emphasize the determination of priority areas where erosion, sedimentation, and related water quality problems appear most in need of control and the development of the comprehensive public information program.

**Subd. 2. Informational hearing on plan.** To develop the program plan, the state board may request existing pertinent information from state agencies and may conduct hearings.

**Subd. 3. Coordination with state resource plans.** The program plan shall be coordinated as closely as possible with the statewide framework water resources plan, the statewide water quality management plan, and other statewide resource plans.

**Subd. 4. Review and revision.** The state board shall review and revise the program plan at intervals it deems appropriate.

**History:** 1990 c 391 art 3 s 22

## COST-SHARING CONTRACTS

### 103C.501 COST-SHARING CONTRACTS FOR EROSION CONTROL AND WATER MANAGEMENT.

**Subdivision 1. Cost share authorization.** The state board may allocate available funds to districts to share the cost of systems or practices for erosion or sedimentation control or water quality improvement that are designed to protect and improve soil and water resources.

**Subd. 2. Request by district board.** (a) A district board requesting funds of the state board must submit an application in a form prescribed by the board containing:

- (1) a comprehensive plan;
- (2) an annual work plan; and
- (3) an application for cost-sharing funds.

(b) The comprehensive and annual work plans must be completed as provided in section 103C.331, subdivision 11. After review of the district's comprehensive plan, the state board must approve the comprehensive plan with necessary amendments or reject the plan.

**Subd. 3. Approval of application.** If the state board approves the comprehensive plan, including the plan's most recent amendment, the annual work plan, and the application of the district, the state board shall determine the specific amount of funds to allocate to the district for cost-sharing contracts.

**Subd. 4. Cost-sharing funds.** (a) The state board shall allocate at least 70 percent of cost-sharing funds to areas with high priority erosion, sedimentation, or water quality problems. The areas must be selected based on the statewide priorities established by the state board. The allocated funds must be used for conservation practices for high priority problems identified in the comprehensive and annual work plans of the districts.

(b) The remaining cost-sharing funds may be allocated to districts as follows:

- (1) for technical and administrative assistance, not more than 20 percent of the funds;
- and
- (2) for conservation practices for lower priority erosion, sedimentation, or water quality problems.

**Subd. 5. Contracts by districts.** (a) A district board may contract on a cost-share basis to furnish financial aid to a land occupier or to a state agency for permanent systems for erosion or sedimentation control or water quality improvement that are consistent with the district's comprehensive and annual work plans.

(b) The duration of the contract may be the time required to complete the planned systems. A contract must specify that the land occupier is liable for monetary damages, not to exceed the amount of financial assistance received from the district, for failure to complete the systems or practices in a timely manner or maintain the systems or practices as specified in the contract.

(c) A contract may provide for cooperation or funding with federal agencies. A land occupier or state agency may provide the cost-sharing portion of the contract through services in kind.

(d) The state board or the district board may not furnish any financial aid for practices designed only to increase land productivity.

Subd. 6. **Rules.** The state board shall adopt rules prescribing:

- (1) procedures and criteria for allocating funds for cost-sharing contracts;
- (2) standards and guidelines for cost-sharing contracts;
- (3) the scope and content of district comprehensive plans, plan amendments, and annual work plans;
- (4) standards and methods necessary to plan and implement a priority cost-sharing program, including guidelines to identify high priority erosion, sedimentation, and water quality problems;
- (5) the share of the cost of conservation practices to be paid from cost-sharing funds; and
- (6) requirements for districts to document their efforts to identify and contact land occupiers with high priority erosion problems.

**History:** 1990 c 391 art 3 s 23

## WORKS OF IMPROVEMENT

### 103C.601 WORKS OF IMPROVEMENT.

Subdivision 1. **Authority.** (a) The district board may, if directed by resolution of the boards of commissioners from the counties where the district is located undertake, construct, install, maintain, and operate works of improvement for a district purpose. The district board may:

- (1) use the proceeds of tax levies, assessments, and other available funds for the works of improvement;
- (2) acquire necessary real or personal property by purchase or gift for the works of improvement;
- (3) contract, survey, plan, construct, install, maintain, and operate the works of improvement; and
- (4) exercise other authorized powers.

(b) Two or more district boards may jointly exercise the powers granted by this section.

Subd. 2. **Request for project.** A program for works of improvement in any area within one or more districts may be initiated upon written request for a project submitted to the district board by one or more of the owners of land in the affected area. The request must include:

- (1) a general description of the area proposed for inclusion in an improvement work unit, with a proposed name or number for the project;
- (2) a description of the affected land owned by the signers; and
- (3) a statement of the objectives of the proposed works in furtherance of the authorized purposes, the grounds upon which the project will be of public benefit and utility and promote the public health, safety, and welfare, and special benefits to property that will result from the project.

Subd. 3. **Determination by district board.** As soon as practicable after receipt of the request the district board shall have necessary preliminary surveys and studies conducted.

Subd. 4. **Resolution of establishment.** (a) The district board may, by resolution, recommend the establishment of an improvement work unit and a program for works of improvement in the work unit to the boards of county commissioners of the counties where the affected land is located if the district board determines the proposed works of improvement:

- (1) are feasible;
- (2) will be of public utility and benefit;
- (3) will promote the public health, safety, and welfare; and
- (4) will further the authorized purposes and best interests of the district.



(b) The district board shall by resolution give the improvement work unit an appropriate name or number, which may be different from the one proposed in the initial project request.

(c) The resolution shall recommend definite boundaries for the improvement work unit, which may be those proposed in the request or modified as the district board deems advisable.

(d) In the resolution the district board may also enlarge, reduce, or otherwise modify the proposed objectives of the program, but not make a substantial change in its main purposes as stated in the initial project request unless consented to in writing by the signers of the request.

(e) At any time before further action is taken on the project as provided in section 103C.605 the district board may amend the resolution, subject to the foregoing limitations.

**Subd. 5. Preliminary general plan.** (a) After adoption of the resolution recommending the improvement work unit and program under subdivision 4, the district board after being directed by resolution of the affected boards of county commissioners may have further surveys and studies made as necessary.

(b) The district board may then have a preliminary general plan with cost estimates made to implement the program for the improvement work unit or part of the work unit.

**Subd. 6. Financial aid.** (a) The district board, at the direction of the affected county boards, may apply for federal aid, state aid, or aid available from other sources for the works of improvement in the program or part of the works of improvement under federal or state law.

(b) The district board may take the steps necessary to determine whether aid will be available and the amount of the aid. The district board may consider how the cost of the works not expected to be paid by federal or other aid may be met from funds of the district or from the proceeds of assessments on benefited property or otherwise, and the district board may make estimates of the amounts and sources.

**Subd. 7. Necessary cooperation or joint action.** If the cooperation or joint action of an adjacent district or other public agency is desirable for the program, the district board, at the direction of the affected county boards, may negotiate with the authorities concerned for cooperation or joint action.

**Subd. 8. Recommendation report.** (a) After completion of the requirements in subdivisions 1 to 7, the district board may make and file a recommendation report, summarizing findings and recommendations for further action on all or part of the program and containing substantially the engineering information required by section 103D.711, subdivisions 1 to 3.

(b) The district board shall make the recommendation report and the preliminary general plan for the improvement work unit available to the affected county boards and to all other public agencies and concerned persons, and may provide other publicity that it deems advisable. The district board shall transmit a copy of the recommendation report and preliminary general plan to regional development agencies where the project is located. If the preliminary general plan involves a project for which a water use permit or public waters works permit is required from the commissioner of natural resources under chapter 103G, or for which proceedings will be instituted under chapter 103E, the district board shall transmit the recommendation report and plan to the commissioner of natural resources and to the state board.

**Subd. 9. State board review.** (a) The state board shall review the recommendation report and preliminary general plan and, if the state board concludes that the plan is inconsistent with systematic administration of state water policy, the state board shall report the conclusion to the district board and the commissioner of natural resources within 60 days after receiving the recommendation report and preliminary general plan.

(b) The district board may modify and retransmit the recommendation report and preliminary general plan to the state board, or request a hearing on the recommendation report and preliminary general plan. The state board shall hear the matter in the manner and following the procedures provided in sections 103A.321 to 103A.341, for the hearing of cases when the state board consents to intervention proceedings.

(c) Unless the state board concludes that the report and plan are inconsistent with state water policy, the district board, with the approval of the county boards, may adopt and sponsor the improvement work unit and a program of work for the unit.

**History:** 1990 c 391 art 3 s 24

### 103C.605 COUNTY DETERMINATION OF PROJECT.

**Subdivision 1. Petition.** (a) The county board or joint county board, acting jointly under section 471.59, may take action on a project within the improvement work unit to construct or install works of improvement or part of the works of improvement pursuant to the recommendation report after receiving a petition.

(b) The petition must be for a project signed by:

(1) at least 25 percent of the owners of the land over which the proposed improvement work passes;

(2) at least 25 percent of the owners of land where the proposed improvement is located;

(3) the owners of at least 30 percent of the land area over which the proposed improvement work passes; or

(4) the owners of at least 30 percent of the land area where the proposed project is located.

(c) The petition must describe the land and request the county board or joint county board to hold a hearing on the practicability and desirability of implementing the project in accordance with the preliminary general plan and the recommendation report of the district board.

(d) If the recommendation report specifies that part of the cost of the project is to be paid from the proceeds of assessments on benefited property, one or more of the petitioners, upon filing the petition and before action is taken on the petition, must file a bond to the county or counties conditioned as provided by section 103E.202, for a county drainage system, to be approved by the chair of the board.

**Subd. 2. Hearing.** The county board or joint county board shall set a time and place for the hearing on the petition, and give notice of the hearing as provided in section 103E.261, subdivision 1.

**Subd. 3. Resolution for further action.** (a) After the hearing the county board or joint county board may adopt a resolution directing further action on the project if it makes and states findings that implementation of the project as requested in the petition will be:

(1) feasible;

(2) in accordance with the recommendation report;

(3) in furtherance of the objectives and purposes of the recommendation report; and

(4) within the estimated cost for which funds may reasonably be expected to be available.

(b) By the resolution the county board or joint county board shall determine the amount to be paid from the various sources of available or potentially available funds, including federal aid, district funds, assessments on benefited property, and other funds. The amount payable from district funds may not exceed the value of the general public benefit of the project to the district as determined by the district board.

**History:** 1990 c 391 art 3 s 25

### 103C.611 PROJECT WITHOUT ASSESSMENTS.

**Subdivision 1. Order establishing project.** (a) If a portion of the project cost is not to be paid from assessments on benefited property, the county board or joint county board may proceed with complete surveys and detailed plans and specifications and make an order establishing the project. The order shall contain findings substantially conforming to those required by section 103E.341, subdivision 2.

(b) Notice summarizing the findings and order shall be served upon the persons entitled to notice of a county drainage project in section 103E.325, unless the notice is waived in writing by each person entitled to the notice. Waiver of notice must be filed with the county auditor.

**Subd. 2. Acquisition of property and materials.** Unless an appeal is taken within 30 days after the notice is given, the county board or joint county board may proceed to acquire necessary rights or property, procure materials, let contracts, and take other steps appropriate to complete the project.

**Subd. 3. Delegation of duties to district.** The county board or joint county board may delegate its duties and powers under this section to the district board or joint district board but the district board or joint district board may not exercise the power of eminent domain.

**History:** 1990 c 391 art 3 s 26

### 103C.615 ACTION ON PROJECT WITH ASSESSMENTS.

**Subdivision 1. Viewers.** If part of the cost of the project is to be paid from the proceeds of assessments on benefited property, viewers must be appointed as provided in section 103E.305, and report as required by sections 103E.311, 103E.315, and 103E.321.

**Subd. 2. Engineering services.** The board or joint board of county commissioners shall direct the petitioners or, with its consent, the district board or joint district board, to provide engineering services as necessary to produce final plans adequate for construction of the proposed improvement.

**Subd. 3. Hearing.** The county board or joint county board shall then give notice of and conduct a final hearing substantially in accordance with sections 103E.325 to 103E.341, as for a drainage proceeding, so far as the procedure is consistent with sections 103C.601 to 103C.635.

**Subd. 4. Assessments greater than benefits.** If the county board or joint county board determines that the total benefits to property are not as much as the amount payable from the proceeds of assessments as specified in the recommendation report of the district board, the petition shall be dismissed and further action on the project discontinued unless the county board or joint county board determines that the deficiency may be met by increasing the amount payable from other funds.

**Subd. 5. Establishment of project.** (a) If it determines that the total benefits to property are as much as or more than the amount payable from the proceeds of assessments as specified in the report and that the other requirements of law have been complied with, the county board or joint county board shall by an order containing the findings establish the project as reported or amended and adopt and confirm the viewers' report as made or amended.

(b) If the total amount of benefits to be assessed upon property pursuant to the viewers' report as confirmed is greater than the amount specified as payable from assessments in the report of the district board, the county board or joint county board may reduce the amounts payable from other sources in proportions it may determine.

(c) Further action shall be taken as provided in chapter 103E, so far as is appropriate, except that each tract of land affected shall be assessed for the full amount of benefits, less damages, if any, as shown by the viewers' report as confirmed, unless the total amount of benefits, less damages, exceeds the total actual cost of the project to be paid from the assessments, in which case the cost shall be prorated as provided in section 103E.601.

**Subd. 6. County funding share of project.** (a) Upon filing of the viewers' report as provided in this section, the county board of each county affected shall provide funds to meet its proportionate share of the total cost of the improvement, as shown by the report and order of the county board or joint county board. The county may issue bonds for the purpose in the amount necessary in the manner provided in section 103E.635.

(b) The provision of section 103E.635, requiring the county board to let a contract for construction before issuing bonds does not apply to bonds issued to provide funds required to be furnished by this section.

**Subd. 7. Delegation of duties to district.** (a) The county board or joint county board, pursuant to agreement with the district board, may by resolution direct the district to undertake, construct, install, maintain, and operate the improvement upon mutually agreed terms. If it is necessary to acquire property by eminent domain, the county, or the counties acting jointly, shall do so and convey the property to the district pursuant to the agreement.

(b) If, pursuant to an agreement, the responsibility for an improvement is vested in a district, the county treasurers shall transmit the proceeds of assessments or bond issues, when

collected, to the treasurer of the district. The district treasurer shall credit the proceeds to the proper funds under the direction of the district board.

**History:** 1990 c 391 art 3 s 27

### 103C.621 PROJECT BONDS.

The county board may pledge the proceeds of assessments on property made for the purposes of a project, any revenues derived from the project, and the proceeds of tax levies or funds from other sources to pay bonds issued for the project.

**History:** 1990 c 391 art 3 s 28

### 103C.625 STATUS OF DISCONTINUED PROJECT.

If a project is discontinued after action on it has begun under section 103C.605, the project shall have the same status as if the action had not begun. The recommendation report of the district board on the project shall continue to be subject to amendment, a new petition for further action may be made at any time as provided in section 103C.605, and further proceedings conducted.

**History:** 1990 c 391 art 3 s 29

### 103C.631 REPAIR.

**Subdivision 1. Definition of repair.** The term "repair" used in this section means to restore a work of improvement or part of it as nearly as practicable to the same condition as when originally constructed or subsequently improved.

**Subd. 2. Maintenance of projects required.** After the construction of a project is completed and accepted by the board of the county or district board having authority over the project, the county board or district board shall maintain the project or the part of the project that is in its jurisdiction and provide the repairs required to keep the project efficient.

**Subd. 3. Repair authority.** The county board or district board shall have the powers and duties of the drainage authority under sections 103E.701 to 103E.745, except as provided in subdivision 4.

**Subd. 4. Financing repairs.** If the board is a district board, the financing of repairs which require assessments and bond issues shall be the responsibility of the county board or joint county board. The county board or joint county board shall finance repairs in the same way as original construction of the project and as provided in sections 103E.701 to 103E.745, so far as appropriate.

**History:** 1990 c 391 art 3 s 30

### 103C.635 APPEALS.

(a) A person aggrieved by an order of a county board or joint county board in a proceeding under sections 103C.601 to 103C.631 may appeal to the district court upon the grounds and in the manner provided by sections 103E.091 and 103E.095, for a county drainage proceeding.

(b) Notices required by sections 103E.091 and 103E.095, to be filed with the county auditor shall also be filed with the district board or joint district board.

(c) An appeal may not be taken from an order made under section 103C.611 or 103C.615 by the board, joint board of county commissioners, district board, or joint district board if the order dismisses a petition or refuses to establish a project.

**History:** 1990 c 391 art 3 s 31