

- b. Reasonable care to be taken to avoid unnecessary injury by fully considering all alternatives.
 - c. Consideration of whether the utility or benefit accruing from the project reasonably outweighs the adverse impacts resulting from the project.
6. Require that appropriate easements be obtained in accordance with applicable state and federal law when projects will cause an adverse impact to lands of other landowners.

61-16.1-11. Joint exercise of powers.

1. Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. A joint board created under this section is a political subdivision of the state.
2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.
3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.
5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
6. Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
7. This section does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.
8. All districts within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall form, and remain members of, joint boards, and shall file their respective agreements, and any subsequent amendments, with the state water commission. Notwithstanding the authority of a board of county commissioners to disapprove or amend the budgets of districts under this chapter, the boards of county commissioners of all member districts of the joint boards in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall approve the levies of taxes up to, but not to exceed, two mills for each fiscal year upon the taxable valuation of the real property within each joint board's respective drainage

Commented [SMF3]: One of the legitimate complaints is that some WRDs refuse to cooperate despite sharing watersheds. This proposal would force WRDs within watersheds or sub-watersheds to either cooperate or get out of the way and allow a Joint WRD to resolve issues within a watershed. This could resolve county vs. county political issues that may stem from other issues, unrelated to a particular water problem.

basin.

61-16.1-12. Scope of water resource board's extraterritorial contractual authority - Board may acquire property in adjoining states and provinces.

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

61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for certain improvements.

A water resource board may enter into an agreement with any federal or state agency, or any combination thereof, for the construction of a project, under the terms of which the contract for the work is to be let by the federal or state agency or any combination thereof. If under the terms of the agreement at least fifty percent of the total cost of constructing the project is to be paid by the agency or agencies and if any portion of the cost of the project is to be paid by the levy of special assessments, the board may by resolution create a project assessment district for the purpose of levying special assessments to finance the amount that the district will be obligated to pay in accordance with the agreement, over and above any other funds which are on hand and properly available for that purpose. The assessment district must be of a size and form as to include all properties which in the judgment of the board, after consultation with a registered engineer designated by the board for that purpose, will be benefited by the construction of the proposed project, and the board shall direct the engineer to prepare a map showing the boundaries of the proposed assessment district. The board shall by resolution declare the necessity of the project, set forth the general nature and purpose of the proposed project, estimate the total cost of the project, and the approximate amount or fraction of the cost which the district will be obligated to pay under the agreement, and the fact that this amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of special assessments upon property within the assessment district determined to be benefited by the project. The board shall cause the resolution of necessity together with a copy of the map showing the boundaries of the assessment district and a notice stating the date and time by which the owners of any property liable to be specially assessed for the proposed project must file their votes on the proposed project with the secretary of the board to be mailed to each landowner affected by the proposed project as determined by the tax rolls of the county in which the affected property is located. The board may send the material by certified mail or by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The notice must also set forth the time and place where the board shall meet to determine whether the project is approved. The notice must also be published once in a newspaper of general circulation in the district and once in the official county newspaper of each county in which the benefited lands are located. Within five days after the first mailing of the resolution the board shall cause a copy of the resolution to be personally served upon any county, city, township, city, school district, park district, or township or other political subdivision, in its corporate capacity which may be benefited directly or indirectly from the construction of the proposed project and upon any county which may become liable for any deficiency in the fund to be created for the project,

Commented [SMF4]: This revision is simply a clean-up, to ensure the political subdivision list is all-encompassing throughout the chapter (as opposed to listing some poli subs and not others, for no apparent reason)

by delivering a copy of the resolution to any member of the governing body thereof. The meeting must be held not less than thirty days after the mailing of the resolution, at which time the board shall determine whether the project is approved. If the board finds that fifty percent or more of the total votes filed are against a proposed project, then the board may not proceed further with the proposed project. If the board finds that less than fifty percent of votes filed are against the proposed project, the board may proceed with the project. In any assessment district created under this section the board may dispense with all other requirements of this chapter, other than those stated in this section. After the contract for the work has been let, the board may issue warrants on the fund of the project for the total amount of the cost thereof, and the board, without holding the hearing required by section 61-16.1-18, shall proceed to determine and levy any assessments against property benefited by the project and prepare an assessment list all in accordance with the procedures required by sections 61-16.1-21 through 61-16.1-24. The provisions of sections 61-16.1-25 through 61-16.1-36 are applicable to the assessments and the special warrants issued pursuant to this section.

61-16.1-13. Master plans.

Repealed by S.L. 1985, ch. 678, § 2.

61-16.1-14. Contracts for construction or maintenance of project.

If the cost of construction or maintenance of a project does not exceed the amount provided for construction of a public improvement under section 48-01.2-02, the work may be done on a day work basis or a contract may be let without being advertised. If the cost of the construction or maintenance exceeds the amount provided for construction of a public improvement under section 48-01.2-02, the board must let a contract in accordance with chapter 48-01.2.

61-16.1-15. Financing project through revenue bonds, general taxes, or special assessments - Apportionment of benefits.

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

61-16.1-15.1. Projects or benefits in more than one county.

The districts from two or more counties may agree to jointly construct or assign benefits and assessments for a project in those counties; the districts must create a joint board under Section 61-16.1-11 before constructing a project or before assessing the lands or premises in those counties for the benefits of a project. If, however, the districts do not jointly agree to undertake a joint project, a district that wishes to undertake the project in two or more counties, or that will benefit properties in two or more counties, shall provide notice to the joint board where the project will be located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin, together with the report required under section 61-16.1-17. If the joint board concludes the project is necessary, and that the benefits of the project will exceed the costs, the joint board shall then proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding the creation, construction, alteration, repair, operation, and maintenance of a project

Commented [SMF5]: Again, the objective here is to provide a solution to watershed or sub-watershed issues where two WRDs may not be able agree to a solution to a water problem, possibly for reasons unrelated to water.

and an assessment district; the determination and levy of assessments against property benefited by the project; and the special warrants issued pursuant to this chapter. If the assessment vote is successful, the joint board will construct, own, operate, and maintain the project, and will administer the corresponding assessment district for the project in accordance with this chapter.

61-16.1-16. Revenue bonds.

Each district shall have the power and authority to issue revenue bonds, not exceeding an aggregate total outstanding of fifty million dollars, for the purpose of financing construction of projects and incidental facilities authorized by this chapter. Issuance of revenue bonds must be approved by two-thirds of all of the members of the water resource board. The district shall pledge sufficient revenue from any revenue-producing facility constructed with the aid of revenue bonds for the payment of principal and interest on the bonds and shall establish rates for the facilities at a sufficient level to provide for the operation of such facilities and for the bond payments. Revenue bonds shall not be a general obligation of any county and shall not be secured by property taxes.

61-16.1-17. Financing of special improvements - Procedure.

When it is proposed to finance in whole or in part the construction of a project with funds raised through the collection of special assessments levied against lands and premises benefited by construction and maintenance of such project, the water resource board shall examine the proposed project, and if in its opinion further proceedings are warranted, it shall adopt a resolution and declare that it is necessary to construct and maintain the project. The resolution shall briefly state the nature and purpose of the proposed project and shall designate a registered engineer to assist the board. For the purpose of making examinations or surveys, the board or its employees, after written notice to each landowner, may enter upon any land on which the proposed project is located or any other lands necessary to gain access. The engineer will prepare a preliminary engineer's report that will include preliminary plans of the proposed project, a preliminary project cost estimate, and identification of any proposed project crossings with any railroad, public road, or highway. Upon the filing of the engineer's preliminary report, the board will create a preliminary project assessment list that will include a preliminary list of the benefits and assessments to be made against each lot, piece, or parcel of land, as well as each county, township, city, school district, park district, or other political subdivision that will benefit from the project; the amount each will benefit from the project; and the preliminary amount of assessments against each. The preliminary assessment list will include each landowner as shown by the tax rolls of the county or counties in which the affected property is located. Upon the board's approval of a preliminary assessment list, the board will set a date and place for a public informational meeting on the proposed project. The place of the public informational meeting must be in the vicinity of the proposed project. At least thirty days before the public informational meeting, the board will mail notice of the meeting to each affected landowner, as well as to each railroad and road authority that may be crossed or impacted by the project, at those parties' addresses as shown by the tax rolls of the county or counties in which the affected property is located. The board may send the notice of meeting by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. At the meeting, the board will explain the proposed project and will present the preliminary assessment list, and will allow landowners, railroads, and road authorities to offer comments or recommendations. Following the public informational meeting, the board may modify the proposed project or proceed with the preliminary plans. The board's engineer will then file an engineer's report with any updated plans of the proposed project, any updated project cost estimates, and identification of any proposed project crossings with any railroad, public road, or highway.

Commented [SMF6]: These changes in 61-16.1-17 create the additional pre-vote hearing/meeting discussed at the Committee's first meeting. This would mandate a "public informational meeting" before commencing the formal voting process, and would give landowners the opportunity to learn about a project and possible costs before the voting process; this way, landowners could offer their feedback to a WRD before they get a ballot in the mail, and would understand a project before the 'project hearing' during the voting process.

Commented [SMF7]: At the Committee's first meeting, we discussed road authorities and the failure in some counties of WRDs to engage those road authorities early in the assessment district/project process. This would require a WRD to identify impacts to a road authority or a railroad early in the process, and would require the WRD to invite those entities to the "public informational meeting." In other words, this would mandate early interaction with road authorities.