

WATERS

CHAPTER 372

H. B. No. 737

(Saugstad, Haugland, Miller and Vinje)

PUBLIC WATERS

AN ACT

To amend and reenact section 61-0101 of the North Dakota Revised Code of 1943 as amended and reenacted by section 1 of chapter 345 of the Session Laws of 1955.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** That section 61-0101 of the North Dakota Revised Code of 1943 as amended by section 1 of chapter 345 of the Session Laws of 1955 is hereby amended and reenacted to read as follows:

61-0101. Waters Of The State; Public Waters.) All waters within the limits of the state from the following sources of water supply, namely:

1. Waters on the surface of the earth excluding diffused surface waters but including surface waters whether flowing in well defined channels or flowing through lakes, ponds, or marshes which constitute integral parts of a stream system, or waters in lakes; and
2. Waters under the surface of the earth whether such waters flow in defined subterranean channels or are diffused percolating underground waters; and
3. All residual waters resulting from beneficial use, and all waters artificially drained; and
4. All waters, excluding privately owned waters, in areas determined by the state engineer to be noncontributing drainage areas. A noncontributing drainage area is hereby defined to be any area which does not contribute natural flowing surface water to a natural stream or watercourse at an average frequency oftener than once in three years over the latest thirty year period;

belong to the public and are subject to appropriation for beneficial use and the right to the use of these waters for such use, shall be acquired pursuant to the provisions of chapter 61-04 of the Revised Code of North Dakota of 1943 and acts amendatory thereof.

Approved March 19, 1957.

CHAPTER 373

H. B. No. 579

(Leet, Lee, Overbo, Einarson, Renfrow, Power, Esterby,
(Watt and Haugland)

DRAINAGE PERMITS

AN ACT

Prohibiting, except in the case of drains established under the jurisdiction of a county board of drain commissioners or drains constructed by a township, the draining into a water course or natural drainway the waters of a pond, slough or lake, which impounds waters gathered or drained from a watershed or drainage area comprising eighty acres or more, unless a permit to do so is granted by the state water conservation commission or by a board of commissioners of a water conservation and flood control district; and prescribing a penalty for violation of this Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Permit To Drain Waters From Certain Ponds, Sloughs, Or Lakes Into A Water Course Or Natural Drainway.) Any person, public or private corporation, proposing to drain waters from a pond, slough or lake, which impounds waters gathered therein and drained from an area comprising eighty acres or more into a natural water course, as defined by section 61-0106 of the North Dakota Revised Code of 1943, or into a draw or natural drainway, before constructing a ditch or facility for the purpose of such drainage shall submit to the state water conservation commission an application for a permit to do so. If sixty percent or more of the watershed or drainage area of such water course, draw or natural drainway is embraced within the boundaries of a water conservation and flood control district, the state water conservation commission shall refer the application to the board of commissioners of such water conservation district for consideration and approval. Such permit shall not be granted until an investigation shall disclose that the quantity of water which will be drained from the pond, slough or lake, as the case may be, will not exceed the capacity of such water course, draw or drainway to carry, and will not flood lands of lower proprietors. If such investigation shall show that the proposed drainage will cause such water course or drainway to overflow and flood the lands of lower landowners, the board of commissioners of the water conservation and flood control district or the state water conservation commission, as the case may be, shall not issue a permit until flowage easements are obtained from owners of lands which might be burdened with the flood

waters of such water course, draw or drainway. Such flowage easements shall be filed for record in the office of the register of deeds of the county or counties in which such lands are situated. An owner of land proposing to drain the waters from such pond, slough or lake into a water course or natural drainway shall undertake and agree to pay the expenses incurred in making the required investigation. The provisions of this Act shall not be construed to limit or restrict the establishment of drains by a board of county commissioners or by a township, and shall not apply to any county which has a board of drain commissioners, or to any drain constructed under the supervision of a state or federal agency.

§ 2. Penalty.) Any person or corporation draining, or causing to be drained, the waters of a pond, slough or lake, which impounds waters therein from a watershed or drainage area comprising eighty acres or more, into a water course without first securing a license or permit to do so, as provided by this Act, shall be liable for all damage sustained by any person caused by draining such pond, lake or slough, and shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars.

Approved March 5, 1957.

CHAPTER 374

H. B. No. 629

(Mueller, Bye, Dick and Vinje)

FEES OF STATE ENGINEER

AN ACT

To amend and reenact section 61-0305 of the North Dakota Revised Code of 1943 relating to fees of the state engineer.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) That section 61-0305 of the North Dakota Revised Code of 1943 be amended to read as follows:

61-0305. Fees Of State Engineer.) The state engineer shall be paid and receive the following fees to be collected in advance and shall be paid by him into the general fund of the state treasury:

1. For filing and examining an application for a permit to appropriate water, with map and field notes in accord-

ance with regulations prescribed by the state engineer for water-use as follows:

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| a. For municipal use in municipalities of 2500 population or over according to the latest federal census | \$100.00 |
| b. For municipal use in municipalities of less than 2500 population according to the latest federal census | 50.00 |
| c. For irrigation | 20.00 |
| d. For industrial use of 1 c.f.s. or less..... | 50.00 |
| e. For industrial use of in excess of 1 c.f.s..... | 100.00 |
| f. For recreation | 20.00 |
| g. For commercial recreation | 50.00 |
2. For recording any permit, certificate of construction or license issued, or any other water right instrument, two dollars for the first hundred words and twenty-five cents for each additional hundred words or fraction thereof;
 3. For filing any other paper two dollars;
 4. For issuing a certificate of construction, or a license to appropriate water three dollars each;
 5. For making a copy of any document recorded or filed in his office, twenty-five cents for each hundred words or fraction thereof;
 6. For a blueprint copy of any map or drawing, twenty cents per square foot or fraction thereof. For other copies of drawings, the actual cost of the work;
 7. For certifying to such copies, two dollars for each certificate;
 8. For examining and approving in connection with water right applications, plans and specifications for any dam, not exceeding ten feet in extreme height from the foundation, twenty dollars, for a dam higher than ten feet and not exceeding thirty feet forty dollars, for a dam higher than thirty feet and not exceeding fifty feet, fifty dollars, and for a dam higher than fifty feet, seventy-five dollars;
 9. For examining and approving in connection with water right applications, plans and specifications for a canal or other water conduit of an estimated capacity exceeding fifty and not more than one hundred cubic feet per second, forty dollars, and for a canal or other water conduit exceeding one hundred cubic feet per second, sixty dollars;

10. For inspecting dam sites and construction work when required by law, or when necessary in the judgment of the state engineer, twenty-five dollars per day and actual and necessary traveling expenses. The fees for any inspection deemed necessary by the state engineer and not paid on demand shall be a lien on any land or other property of the owner of the works, and may be recovered by the state engineer in any court of competent jurisdiction;
11. Rating ditches or inspection plans and specification of works for the diversion, storage, and carriage of water, at the request of private parties, not in connection with an application for the right to appropriate water, actual cost and expenses. The state engineer shall attach his approval to such plans and specifications if found satisfactory; and
12. For such other work as may be required of his office, the fees provided by law.

In ascertaining the actual cost of any work as the term is used in this section, the salary of any salaried officer for the time employed shall be included.

Approved March 12, 1957.

CHAPTER 375

S. B. No. 296
(Delayed Bills Committee)

PRESCRIPTIVE WATER RIGHTS

AN ACT

Confirming and establishing water rights acquired through use or attempted use of water for mining, manufacturing, irrigating or other beneficial purposes prior to January 1, 1934, which water rights have not been willfully forfeited because of nonuse.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Prescriptive Water Right.**) Any person, firm, corporation or municipality which used or attempted to appropriate water from any water course, stream, body of water or from an underground source for mining, irrigating, manufacturing or other beneficial use over a period of twenty years prior to

January 1, 1934, shall be deemed to have acquired a right to the use of such water without having filed or prosecuted an application to acquire a right to the beneficial use of such waters. Such use or attempted use of the waters is hereby declared to be a prescriptive water right and is hereby confirmed and established as such. Any such prescriptive water right acquired under this Act shall be subject to forfeiture for nonuse as prescribed by law.

Approved March 11, 1957.

CHAPTER 376

H. B. No. 680

(Mueller, Gress and Anderson of Eddy-Foster)

IRRIGATION PERMIT

AN ACT

To amend and reenact section 61-0402 of the 1953 Supplement to the North Dakota Revised Code of 1943 relating to application for beneficial use of water for irrigation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** That section 61-0402 of the 1953 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

61-0402. Application For Beneficial Use Of Water Required.) Any person, association or corporation intending to acquire the right to the beneficial use of any waters, before commencing any construction for such purpose, or before taking the same from any constructed works, shall make an application to the state engineer for a permit to appropriate. The state engineer and state water conservation commission may, in order to permit rotation of crops, upon request by the applicant and if found feasible, grant a permit or license which will be applicable to a gross area containing more than the acreage which can be irrigated in one year with the quantity of water authorized to be beneficially used under such permit or license.

Approved March 7, 1957.

CHAPTER 377

S. B. No. 147

(Morgan, Yunker and Garaas)

PETITION FOR PROPOSED IRRIGATION DISTRICT

AN ACT

To amend and reenact section 61-0507 of the 1953 Supplement to the North Dakota Revised Code of 1943 and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 61-0507 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0507. Petition For A Proposed Irrigation District; Filed Where; Signed By Whom; Contents.) A petition for a proposed irrigation district shall be filed with the state engineer and shall be signed by landowners of the proposed district who together shall own a majority of the whole number of acres subject to assessment for construction or other costs within the district requesting the territory described in such petition be organized under the provisions of this chapter. Such territory shall be described and shall be included in such district, if established, by legal governmental subdivisions of 40 acres or more unless held in fractional lots or plotted units of lesser size, or unless portions thereof are more readily susceptible to irrigation from works other than those of the proposed district. Such petition shall set forth the name and address of each petitioner and a description of his land, and the petition shall have attached thereto a map or maps showing the boundaries of the proposed district.

§ 2. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 20, 1957.

CHAPTER 378

S. B. No. 257

(Livingston, Vendsel, Meidinger, Foss and Kieley)

OPERATION OF WATER RESERVOIRS

AN ACT

Requiring every operator of a water storage reservoir having a capacity of one thousand acre feet or more to annually file with the state engineer a plan of operation and requiring a special report whenever the state engineer declares an emergency to exist.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. State Engineer May Require Plan Of Operation.) Every operator of a water storage reservoir in North Dakota having a capacity of more than one thousand acre-feet shall annually, between the first and fifteenth day of February, file with the state engineer an operating plan for such reservoir for the calendar year in which the same is filed. The operator of any such reservoir shall be required to cooperate with the state engineer to the end that all water releases shall be compatible with the best interests of the greatest number of downstream water users and affected landowners. In the event that the state engineer declares an emergency to exist in connection with the operation of any such reservoir, the operator thereof shall promptly submit to the state engineer a separate interim operating plan therefor in addition to the annual reservoir operating plan herein required. Such interim operating plan shall then be coordinated and integrated with the suggestions and plans of the state engineer to best serve the affected interests during such emergency.

Approved March 11, 1957.

CHAPTER 379

S. B. No. 126

(Morgan, Yunker, Garaas, Klefstad, Krause, Leier and Holand)

ASSESSMENTS IN IRRIGATION DISTRICTS

AN ACT

To amend and reenact sections 61-0902 and 61-0903 of the North Dakota Revised Code of 1943, relating to the assessment of lands in irrigation districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) That section 61-0902 of the North Dakota Revised Code of 1943 is hereby amended and reenacted so as to read as follows:

61-0902. District Assessor To Make List Or Prepare Map To Show Apportionment Of Assessments; Filing.) The assessor shall make, or cause to be made, a list showing the apportionment or distribution of assessments, and containing a description of each unit or tract of land assessed in the district, and the name of the record owner thereof, or he may prepare a map on a convenient scale showing each unit or tract of land with the amount per acre apportioned thereto. Such units of land shall, wherever practicable, consist of governmental subdivisions of 40 acres or more. Where all lands on such statement or map are assessed at the same amount or rate per acre, a general statement to that effect shall be sufficient. A copy of such list or map shall be filed in the office of the county auditor of each county in which the district is situated, one copy shall be filed in the office of the state water conservation commission, and one copy shall remain in the office of the board for public inspection.

§ 2. **Amendment.**) That section 61-0903 of the North Dakota Revised Code of 1943 is hereby amended and reenacted so as to read as follows:

61-0903. Assessments Spread In Proportion To Benefits Received; Property Subject To Assessment For Deficiency.) Whenever any assessment is made within an irrigation district it shall be apportioned to and spread upon each unit or tract of land in the district in proportion to the benefits received. Benefits accruing to each unit or tract of land shall be apportioned thereto on the basis of the number of irrigable acres therein. Bonds, district improvement warrants, and other obligations incurred by the district shall be the obligations

of the district. Only lands within the district benefited by irrigation and subject to assessment for irrigation benefits shall be subject to assessment for any deficiency in any fund created for the payment of bonds, district improvement warrants, and other district obligations.

Approved March 20, 1957.

CHAPTER 380

S. B. No. 125

(Morgan, Yunker, Garaas, Klefstad, Krause, Leier and Holand)

REFUNDING IRRIGATION ASSESSMENTS; REPEAL

AN ACT

Repealing subsection 3 of section 61-0916 and section 61-1024, North Dakota Revised Code of 1943, relating to irrigation districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Repeal.) Subsection 3 of section 61-0916 of the North Dakota Revised Code of 1943 is hereby repealed.

§ 2. Repeal.) That section 61-1024 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 20, 1957.

CHAPTER 381

S. B. No. 123

(Morgan, Yunker, Garaas, Klefstad, Krause, Leier and Holand)

PETITION FOR INCLUSION OF LANDS IN IRRIGATION DISTRICT

AN ACT

To amend and reenact section 61-1002, North Dakota Revised Code of 1943, relating to irrigation district boundaries.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 61-1002 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1002. Petition For Inclusion Of Land In District; Contents Of Petition.) The holder or holders of title, or evidence of title, and the secretary of the interior of the United States for unentered or public land, representing one-half or more of any body of lands which can be served by the irrigation system, and which, taken together, constitute one tract of land, may file with the board of directors of such district a petition in writing praying that the boundaries of such district may be so changed as to include their lands. The petition shall describe the boundaries of the parcel or tract of land, and also shall describe the boundaries of the several parcels owned by the petitioners, if they are the owners of district parcels. Such description need not be more particular than may be required when such lands are entered by the township assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion in said district of the parcels or tracts of land described in the petition, and of which the petition alleges that they respectively are the owners, and it must be acknowledged in the manner in which a conveyance of lands is required to be acknowledged.

Approved March 9, 1957.

CHAPTER 382

S. B. No. 124

(Morgan, Yunker, Garaas, Klefstad, Krause, Leier and Holand)

PETITION FOR EXCLUSION OF LAND FROM IRRIGATION DISTRICT

AN ACT

To amend and reenact section 61-1016, North Dakota Revised Code of 1943, relating to the hearing on a petition and objections thereto, and to the assent of parties in proceedings for the exclusion of land from an irrigation district.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 61-1016 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1016. Hearing Petition And Objections Thereto; Assent Of Parties.) The board, at the time and place mentioned in the notice, or at the time to which the hearing of the petition may be adjourned, shall proceed to hear the petition and all

objections thereto presented in writing. The failure of any person interested in the district to show cause in writing why the tract or tracts of land mentioned in the petition should not be excluded from said district, shall be deemed an assent by him to the exclusion of such tract or tracts, or any part thereof, from said district. The filing of a petition with the board praying for the exclusion of lands from the district shall be deemed an assent by each petitioner to the exclusion from such district of the lands mentioned in the petition, or any part thereof. Any unit or tract of land mentioned in the petition which does not include within its boundaries acreage susceptible of irrigation by the irrigation facilities of the district shall not be assessed or taxed by the district and may be excluded therefrom.

Approved March 9, 1957.

CHAPTER 383

H. B. No. 701

(Christopher, Collette, Baldwin, Lee)
(Fristad, Leet)

WATER CONSERVATION AND FLOOD CONTROL DISTRICTS

AN ACT

Providing for the creation, organization, operation and maintenance of water conservation and flood control districts; providing for district boards of commissioners and prescribing their powers and duties, authorizing financing construction of projects and requiring appropriations and tax levies to keep sinking funds for construction assessment warrants on a cash basis, repealing chapter 61-16 of the 1953 Supplement of the North Dakota Revised Code of 1943 and chapter 346 of the Session Laws of 1955; validating the organization of existing districts and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Definitions.)** In this Act, unless the context or subject matter otherwise provides:

1. "District" shall mean a water conservation and flood control district provided for in and under this Act;
2. "Commission" shall mean the state water conservation commission; and

3. "Board of commissioners" shall mean the board of commissioners of a water conservation and flood control district provided for in this Act.
4. The term "project", as used in this Act, shall mean, and include, any undertaking for water conservation, flood control, watershed improvement and drainage of surface waters, including incidental features of any such undertaking.

§ 2. Petition For Establishment Of Water Conservation And Flood Control District; Hearing Thereon And Investigation. District When Created.) Whenever there is filed with the state water conservation commission a petition signed by a county, city, village, or township, or by a cooperative grazing association, or by fifty percent or more of the freeholders within the limits of a proposed water conservation and flood control district the commission shall fix a time and place for a public hearing on such petition. The place of hearing shall be convenient and accessible for a majority of the freeholders of the proposed district. Not less than ten days prior to the date of hearing notice thereof shall be published in at least one newspaper of general circulation in the proposed district. Additional notice of such hearing may be given in such manner as the commission may prescribe.

Prior to such hearing the state engineer, as chief engineer for the commission, shall make, or cause to be made, an investigation of the need for establishment of the proposed district and shall submit a report of his findings to the commission. Such report shall be presented and read at the hearing on the petition. If the commission finds that it is not feasible, desirable or practical to establish the proposed district it shall make an order denying the petition and shall state therein its reasons for its action. If, however, the commission shall find that the problems of flood control, watershed development or improvement, drainage, water supply or other reasons make the establishment of the proposed water conservation and flood control district desirable, proper and necessary, the commission shall grant the petition and create such district and establish the boundaries thereof.

§ 3. Bond To Accompany Petition For District; When; Exception.) When a petition for the establishment of a water conservation and flood control district is presented by fifty percent or more of the freeholders of the proposed district, the commission shall require a bond from such petitioners in a sum sufficient to pay all expenses of the investigation and examination required to determine whether the petition should be granted. When a petition is signed by a county, city, village, or township, no bond shall be required but the

county, city, village, or township, as the case may be, shall pay the expenses necessarily incurred by the commission in investigating and examining the proposal for the establishment of such district in the event that the petition is disallowed.

§ 4. Resolution Of Governing Body Of Public Corporation Filed With Commission.) When a petition is filed by any public corporation as provided in this Act, a certified copy of the resolution of the governing board thereof authorizing the signing of such petition shall be filed with the commission at the time of filing the petition.

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

§ 6. Order Establishing Water Conservation And Flood Control District.) A certified copy of the order establishing a water conservation and flood control district shall be filed with the county auditor of each county within which any portion of the district lies, and a like copy of the order shall be filed in the office of the secretary of state. The secretary of state shall make and issue to the state water conservation commission his certificate, bearing the seal of the state, of the due organization of such district, and shall record such certificate and the order of the commission establishing the district. Such certificate of the secretary of state, or a copy thereof authenticated by him, shall be prima facie evidence of the organization of such water conservation district. Such district shall be, and is hereby declared to be a governmental agency, body politic and corporate with the authority to exercise the powers specified in this Act, or which may be reasonably implied in order to exercise such powers. The order of the commission shall specify the name or number by which a water conservation and flood control district shall be known.

§ 7. Board Of Water Conservation And Flood Control Commissioners; Appointment And Number Of.) When an order of the state water conservation commission, creating a water conservation and flood control district, has been filed in the office of the county auditor of a county in which such district or a part of such district is situated, a board of district commissioners shall be appointed as provided herein. If the boundaries of such district are confined within one county the

board of county commissioners thereof shall appoint a district board consisting of three commissioners. When a district includes territory within two counties, the board of commissioners shall consist of five members, three of whom shall be appointed by the board of commissioners of the county in which that part of the district lies which has the larger aggregate taxable valuation of property in the district and two members of the board shall be appointed by the board of county commissioners of the county in which the part of the district lies having the lesser aggregate taxable valuation. If a district includes territory in three counties, the board of commissioners shall consist of five members, one of whom shall be appointed by the board of county commissioners having the lowest aggregate taxable valuation of property in the district and two members of the board shall be appointed by the board of county commissioners of each of the other two counties. And when such district embraces territory in four counties, the board of commissioners shall consist of seven members, three of whom shall be appointed by the board of county commissioners of the county in which the part of the district lies which has the largest aggregate taxable valuation of property in the district, two members shall be appointed by the board of county commissioners of the county in which the part of the district lies which has the next highest aggregate taxable valuation of property, and one member shall be appointed by the county board of each of the other two counties.

§ 8. Eligibility For Appointment To Board, Term Of Office, Filling Vacancies, Compensation Of Commissioners.) When a water conservation and flood control district has been created any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The terms of office of commissioners appointed to the first district board shall be determined by lot and shall be as herein provided. If such district board shall consist of three commissioners, one commissioner shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years. When a district board consists of five commissioners, two commissioners shall hold office for the term of two years, one for three years, one for four years and one commissioner a term of five years. And when a board shall consist of seven commissioners, two commissioners shall hold office for two years, two for three years, two for four years and one for five years. When the term of office of a district commissioner has expired, his successor shall hold office for five years. The term of office of a commissioner shall commence on the date of his appointment. In case the office of any district commissioner shall become vacant, the commissioner appointed to fill the vacancy shall serve the

unexpired term of the member of the board of commissioners, shall receive the same per diem as members of a board of county commissioners and shall be reimbursed for expenses incurred in the performance of their duties on a like basis. The terms of office of members of a board of commissioners of a water conservation and flood control district created prior to the effective date of this Act shall be determined by lot at the first meeting of the board after that date. The term of office of any member of such board of commissioners shall be deemed to have commenced on the date of his appointment to such board.

§ 9. Oath Of Office; Organization Of Board Of Commissioners; Appointment Of Employees; Meetings.) Upon receiving notice of his appointment as member of the board of commissioners of a water conservation and flood control district, such appointee shall take the oath of office prescribed for civil officers. Such oath shall be filed with the secretary of the board after organization thereof as herein provided. Notice of the appointment of a member or members of a board of commissioners shall be mailed to the state water conservation commission. Such notice shall state the name and postoffice address of each appointee and the date of his appointment.

The commissioners appointed, after establishment of a water conservation and flood control district, shall meet to organize at a time and place designated by the state engineer and shall organize by selecting a chairman of the board and naming a temporary secretary pending appointment of a permanent secretary. A majority of the commissioners shall constitute a quorum for the transaction of such business as may come before the board but any number may adjourn a meeting for want of a quorum. The board shall appoint a secretary and treasurer and such other employees as shall be deemed needed for the efficient conduct of the district's business and shall fix their compensation. The offices of secretary and treasurer may be held by the same person. Officers and employees shall hold office during the pleasure of the board.

The board shall provide an office suitable for its use as a meeting place and for conducting the affairs of the district. It shall adopt such rules or regulations for transacting the business of the district as it may deem necessary, including the time and place of holding regular meetings of the board. Special meetings may be called by the secretary on order of the chairman of the board or upon written request of two members of the board. Notice of a special meeting shall be mailed to each member of the board at least five days before any such meeting, provided that a special meeting may be held whenever all members of the board are present or consent thereto in writing.

§ 10. Bonds Of Treasurer And Appointive Officers.) The treasurer of a water conservation and flood control district shall be bonded in such amount as shall be required by the board of commissioners but such bond shall not be less than one thousand dollars. Other district employees shall be bonded in such an amount as the board may prescribe. Every officer or employee of whom a bond shall be required shall be deemed bonded with the state bonding fund upon notice of his appointment given to the state commissioner of insurance by the secretary of the district. Upon notification by the state bonding fund of the premium required, the treasurer shall remit the same.

§ 11. Powers And Duties Of Board Of Commissioners.) The board of commissioners shall have the power:

1. To sue and be sued in the name of the district;
2. To exercise the power of eminent domain in the manner provided by the title Judicial Remedies for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this Act, and particularly to acquire the necessary rights in land for the construction of dams and other water conservation works of any nature and to flood lands, and to secure the right of access to such dams and other devices and the right of the public access to the waters impounded thereby;
3. To accept funds and property or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purposes of aiding the construction or maintenance of water conservation and flood control projects; and cooperate and contract with the state or federal government, or any department or agency thereof, in furnishing assurances and meeting local cooperation requirements of any project involving control, conservation and use of water;
4. To procure the services of engineers and other technical experts, and employ an attorney or attorneys to assist, advise, and act for it in its proceedings;
5. To plan, locate, relocate, construct, reconstruct, modify, maintain, repair, and control all dams and water conservation devices of every nature and water channels and to control and regulate the same and all reservoirs, artificial lakes, and other water storage devices within the district;
6. To maintain and control the water levels and the flow of water in the bodies of water and streams involved

- in water conservation and flood control projects within its district, and regulate streams, channels or water courses and the flow of water therein by changing, widening, deepening, straightening the same or otherwise improving the use and capacity thereof;
7. To regulate and control flood waters for the prevention of floods, by deepening, widening, straightening or dyking the channels of any stream or water course within its district, and construct reservoirs or other means to hold and control such waters;
 8. To make rules and regulations concerning the use to which such waters may be put and prevent the pollution, contamination or other misuse of the water resources, streams, or bodies of water included within the district;
 9. After organization of the board, and on or before July 1, in each year thereafter, to adopt a budget showing estimated expenses for the ensuing fiscal year commencing July 1st, and by resolution submit such budget to the board of county commissioners in each county in which the district is located. The board of county commissioners shall consider such budget and by resolution levy a tax of not to exceed three mills on each dollar of taxable valuation in the district or part thereof and direct the county auditor to file such budget and spread the levy on his tax roll;
 10. To do all things reasonably necessary and proper to preserve the benefits to be derived from the conservation, control and regulation of the water resources of this state;
 11. To have all of the powers conferred by statutes upon a board of county drain commissioners;
 12. To acquire by lease, purchase, gift, condemnation or other lawful means and to hold in its corporate name for use and control as provided by law both real and personal property and easements and rights-of-way within or without the limits of the district for all purposes authorized by law or necessary to the exercise of any power;
 13. To convey, sell, dispose of, or lease personal and real property of the district as provided by this Act;
 14. To contract with the United States Government or any department thereof, with persons, railroads or other corporations, with public corporations, and state govern-

ment of this or other states, with drainage, flood control, conservation, conservancy or improvement districts, in this or other states, to carry out the provisions of this Act, and to purchase, lease or acquire land or other property in adjoining states for any purpose authorized by this Act;

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

§ 12. District Budget; Tax Levy; Financing By Special Assessment.) When a water conservation and flood control district has been created and the board of commissioners thereof has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include costs of rights-of-way, easements or other interest in property deemed necessary for the construction, operation and maintenance of any water conservation or flood control projects therein. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget or apportionment thereof to the county auditor of each county in the district. If a district is situated in more than one county, the estimates shall be apportioned to counties affected. Such county auditor shall transmit the same to the board of county commissioners of his county. The board of county commissioners of each county in which the district is situated shall by resolution levy, authorize and direct their county auditor to extend and spread upon the tax roll of his county a tax of not to exceed three mills on each dollar of taxable valuation in the district or part of district situated in the county in the same manner, and with the same effect, as general property taxes are extended and spread. Funds produced each year by such tax levy shall be available until expended, and if such tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the same may be accumulated. The acquisition of rights-of-way, easements, and the construction, operation and maintenance of a project in a district may, in the discretion of the board of commissioners, be financed in whole or in part by special assessments against property benefited by such project or the board may provide for the payment of such expenses from revenues realized in part from tax collections and in part from such special assessments.

§ 13. District May Issue Warrants In Anticipation Of Taxes Levied To Pay Current Expenses.) After a water conservation and flood control district has been established and a board of commissioners has been appointed and organized, the board of commissioners may, in order to pay current district expenses including per diem, compensation and expenses of commissioners and wages or salaries of officers and employees, by resolution authorize and issue district warrants in anticipation of and pending collection and receipt of taxes levied. Such warrants shall bear such rate of interest as the board may determine, not exceeding, however, seven percent per annum. The district treasurer shall keep a register in which to enter each warrant issued, showing the date and amount of each warrant, the date of payment, and the amount paid in redemption thereof. All warrants shall be paid in order of their presentation for payment to the district treasurer. Such warrants shall be drawn to the claimant or bearer in the same manner as a county warrant, and shall be signed by the chairman of the board of commissioners and countersigned by the treasurer of the district. The total amount of such warrants issued in any year to pay current district expenses shall not exceed eighty percent of the district's tax levy for such year.

§ 14. County Treasurer To Collect And Remit Taxes To District Treasurer. District Fund To Be Deposited In The Bank Of North Dakota.) The treasurer of each county in which a water conservation and flood control district, or a part of such district, is situated shall collect all district taxes and special assessments together with penalty and interest thereon, if any, in the same manner as county taxes are collected, and shall within twenty days after the close of each month pay to the treasurer of the district taxes and assessments collected by him during the preceding month, and shall notify the secretary of the district of such payment. The district treasurer shall on or before the twentieth day of each month report to the chairman of the board the amount of money in the district treasury, the amount of receipts in the preceding month and items and amount of expenditures. At each meeting of the board the treasurer shall submit to the board a statement of the district's finances.

All collections received by the treasurer of the district shall be deposited by him in the Bank of North Dakota to the credit of the district. No claim shall be paid by the treasurer until approved by the board of commissioners, and then only upon warrants signed by the chairman and countersigned by the treasurer of the board. All claims against the district shall be verified in the same manner as claims against a county.

§ 15. Construction And Repair Of Dam; Proposals For; Presented To Whom; Hearing Proposals.) No dams or other devices for water conservation, flood control regulation, watershed improvement or storage of water shall be constructed within any water conservation and flood control district except in accordance with the provisions of this Act. Any proposal for the construction of any dam or other facilities shall be presented first to the board of commissioners of the district within which the contemplated project is located. Such board shall consider the same, and if the proposal meets with its approval, it shall forward the proposal to the commission as soon as possible. After the receipt thereof, the commission shall consider the same in such detail as to it may seem necessary and proper, and shall make its recommendations and suggestions as to the propriety, efficiency, and feasibility of the proposal, and forward the same to the board of commissioners. The board thereupon shall require, or if the project is to be constructed at the expense of the district shall furnish, complete plans and specifications therefor, which shall be forwarded to the commission. The commission shall examine the same in detail and may refuse to allow the construction of any unsafe, improper, or dangerous dam or other device which would interfere with the orderly control of the water resources of the district, and may order such changes or modifications thereof as in its judgment may be necessary for safety. Any person aggrieved by any such ruling of the commission shall have the right to a full hearing before the commission and a full consideration of all evidence available before a final order of the commission shall be entered. Such order of the commission shall be subject to appeal to the district court as provided in this Act.

§ 16. Commission And Board Of Commissioners Shall Encourage Construction Of Dams And Other Water Control Devices.) The commission and the board of commissioners shall encourage the construction of dams and other water control works within the district by federal and state agencies, private individuals, and public and private corporations, and shall lend their aid, counsel, and assistance to any such project. All dams and other works, whether constructed by public authorities or private persons, unless specifically exempted therefrom, shall be subject to all of the provisions of this Act.

§ 17. Dams Constructed Within A District Shall Come Under Control Of Board Of Commissioners.) All dams, water conservation and flood control works constructed within any district, unless specifically exempted therefrom, automatically shall come under the jurisdiction of the board of commissioners. No changes or modifications of any existing dams or

other devices shall be made without complying fully with the provisions of this Act.

§ 18. Dams Constructed By Federal Agency Under Control Of Board Of County Commissioners; When.) Any dam or water control device or flood control project constructed by or with the assistance of any federal agency, and having no one responsible for its maintenance and operation, and outside of a water conservation and flood control district, shall come under the jurisdiction of the board of county commissioners of the county in which such dam or water control device is located. The board of county commissioners is authorized to exercise control and supervision over the same and may make such provisions as it deems necessary or desirable for the proper maintenance thereof. In such case, the board of county commissioners may petition for the establishment of a water conservation and flood control district as provided in this Act.

§ 19. May Contract With Federal And State Governments; Local Districts, Persons And Corporations; Acquire Property In Adjoining States.) The board of commissioners shall also have the right, power and authority to enter into contracts or other arrangements for water conservation or flood control works with the United States government or any department thereof, with persons, railroads or other corporations, with public corporations, and state governments of this or other states, with drainage, flood control, conservation, conservancy, or improvement districts, in this or other states, for cooperation or assistance in planning constructing, maintaining, and operating such works and in making investigations and reports thereon; and may purchase, lease or acquire land or other property in adjoining states in order to secure outlets to construct and maintain dykes or dams, or for other purposes authorized by this Act and may let contracts or spend money for securing such outlets or works in adjoining states. Provided, that no board of commissioners of any water conservation and flood control district shall have the right, power or authority to connect by artificial means boundary waters having different natural outlets so that the waters of one may be discharged into the other.

§ 20. Exemption Of Federal Agencies From Provisions Of Chapter; Purpose Of Chapter.) The provisions of this Act shall not apply to the government of the United States or any department, bureau, or agency thereof, except to such extent as the government of the United States or any department, bureau, or agency thereof may desire to take advantage of its provisions, it being the express purpose and intent of this Act to aid but not to interfere with the government of the United States or of any department, bureau, or agency thereof in

any undertaking over which such federal authority desires to exercise full supervision and control, nor to the impounding, utilization, or distribution of any water for any purpose on or in connection with such project. The provisions of this chapter shall not be construed to impair, limit, or repeal any water right or other right whatever, which the government of the United States or any department, bureau, or agency thereof has to full and complete jurisdiction, management, or control over any waters or projects over which such federal authority desires to exercise such rights, it being the purpose of this Act expressly to subordinate any power or jurisdiction granted therein to the extent where the exercise of such power or jurisdiction shall never interfere directly or indirectly with such federal authority.

§ 21. Financing Project Through Special Assessments Or Partly Through General Taxes And Partly Through Special Assessments Apportionment Of Benefits.) The board of commissioners may acquire needed interests in property and provide for the cost of construction, alteration, repair, operation and maintenance of a water conservation or flood control project through issuance of special assessment warrants or with funds raised by a general tax or by a combination of a general property tax and special assessments. Whenever a board of commissioners shall decide to acquire property or interests in property in order to construct, operate, alter, repair, or maintain such project with funds raised in whole or 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 assessment taxes which any lot, piece or parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, village or township which is benefited thereby.

§ 22. Procedure On Financing Of Special Improvements; Resolution Declaring Construction And Maintenance Of Project Necessary; Contents Of Resolution; Protests Against Resolution; Meeting To Hear Protests; Protests Bar To Improvement; Invalid Or Insufficient Protests; Procedure For The Assessment Of Damages And Contracting For And Assessing Benefits Therefor. Procedure When District Enters Into An Agreement With Federal Or State Government For Improvement.) When it is proposed to finance in whole or in part the construction of a water conservation or flood control project by issuance of special assessment warrants or with funds raised through the collection of special assessment taxes levied

against lands and premises benefited by construction and maintenance of such project, and after such project is approved by the commission as provided herein and by the board of county commissioners of each of the counties wherein the district lies, the board, by resolution, shall declare that it is necessary to construct and maintain such project therein. Such resolution shall state briefly the nature and purpose of the proposed project, and shall state the time and place within said district where the board will meet to consider any protests to the proposed project, and, under the conditions specified in section 23, shall include provision for protesting the levy of the general tax provided in section 35 to be made by the board of county commissioners. Such resolution shall be given by publication thereof once each week for two successive weeks in a newspaper of general circulation in the district. The hearing shall be held not less than twenty days after the first publication of such resolution. If within twenty days after the first publication of such resolution, the owners of property liable to be specially assessed for the proposed improvement shall file written protests with the secretary of the board, protesting against the improvement, the board at the time set for such hearing shall determine the sufficiency thereof. If the board finds the protests to contain the names of the owners of a majority by taxable value of the land subject to assessment for construction of the proposed project, then the protests shall be a bar against proceeding further with such improvement. If the protests are found to be insufficient or invalid, the board may proceed to determine damages, if any, which will be sustained by owners of affected property and the board may proceed to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in title 40, North Dakota Revised Code of 1943, and acts amendatory thereof, and supplemental thereto, for the construction of sewers within municipalities. When any district has entered into an agreement pursuant to the provisions of this Act, under the terms of which the contract for such work is to be let by the United States Government or by the state of North Dakota, or by both jointly, the board, after hearing protests and determining to proceed with the improvement, may dispense with the balance of the requirements of this Act relating to plans for, bids upon, contracts for, construction of, and any other steps leading up to the construction of an improvement by the special assessment method, and the board may proceed to cause assessments to be made as in other cases provided.

§ 23. Resolution Of Board To Include Provision For Protesting And Refusing Authority To Make General Tax Levy In Certain Cases; Election To Be Held.) In any case in which

that part of the cost of a water conservation or flood control project allocated to a county shall exceed fifty thousand dollars, the resolution of the board of commissioners provided for in section 22 of this Act shall state that any deficiency or probable deficiency in the special assessment fund for the payment of project warrants of the district shall be forestalled and the ability of the fund to pay principal and interest punctually shall be restored by a general tax levy upon the taxable property in the counties wherein the district lies, as provided in section 35, unless ten percent of the electors voting for governor in the last general election in that county, by written protest filed with the board of commissioners within twenty days after the first publication of such resolution, object to the payment of any deficiency or probable deficiency in such special assessment fund by such general tax levy.

If such written protests are found by the board of commissioners to carry a sufficient number of signatures, the board by resolution shall thereupon call a special election in the county or counties from which such protests were received for the purpose of having the electors of the county vote upon the question of whether such general tax levy shall be permitted. The date of such election shall be not less than twenty days from the date of the resolution calling for the election. The board shall cause notice of such election to be published once each week for at least two weeks prior to the date thereof in the official newspaper of the county. Such notice shall specify the date, polling hours, and the polling places of such election which shall be the same as for general elections and shall contain a copy of the resolution calling the special election and a statement of the question to be voted upon as it shall appear upon the ballot. The board shall appoint an inspector, two judges, and two clerks of election for each polling place.

The ballot for such election shall be separate from other ballots used on the same day for other elections, and shall be printed, and shall state the question in substantially the following form:

Shall the board of county commissioners be permitted to levy a general tax on all taxable property in the county to pay any deficiency or probable deficiency that might occur in the project warrant fund of

.....District, (here insert the name of the water conservation or flood control district) which fund was established by resolution of the commissioners of said district on....., (here insert date of such resolution.)

Yes
 No

Spoiled or blank ballots cast at such election shall not be counted for or against the question voted upon.

If a majority of the votes cast at such election are "Yes" votes, authority to make such a general tax levy shall be deemed approved. If a majority of the votes cast at such election are "No" votes, authority to make such a general tax levy shall be denied.

The election officials shall be compensated in the manner provided by law for general elections, and the costs of such election shall be borne by the district concerned.

§ 24. When Assessments May Be Made.) At any time after a contract and bond for any work for which a special assessment is required have been approved by the board and the total cost of such work shall have been estimated as nearly as practicable, the board may direct assessments to be levied for the payment of all or any part of such cost, and the secretary shall certify to the board the items of total cost thereof to be paid by special assessments so far as the same have been ascertained. Such certificate shall include the estimated construction cost under the terms of any contract, a reasonable allowance for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents' and attorney fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices and printing of improvement warrants, cost necessarily paid for damages caused by such improvement, interest during the construction period, and all expenses incurred in making of the improvement and levy of assessments therefor. In the event that any error is made in estimating the cost, the board may make a supplemental assessment therefor as provided in this Act.

§ 25. Regulations Governing Determination Of Special Assessments. Political Subdivisions Not Exempt. Levy Of Tax For Improvements By Political Subdivisions Not Subject To Levy Limitation.) Whenever the board is required to make any special assessments under the provisions of this Act, the members thereof personally shall inspect any and all lots and parcels of land, which may be subject to such assessments and shall determine from such inspection the particular lots and parcels of lands, which in the opinion of the board, will be especially benefited by the construction of the work for which the assessment is made and shall assess the proportion of the total cost of such improvement in accordance with benefits received but not exceeding such benefits, against;

1. Any county, township, city or village, in its corporate capacity, which may be benefited directly or indirectly thereby; and
2. Any lot, piece, or parcel of land which is either directly or indirectly benefited by such improvement.

Property belonging to the government of the United States shall be exempt from such assessment, unless such government shall provide for the payment of any assessment which may be levied against its property for benefits received. Benefited property belonging to counties, cities, villages, school districts, park districts and townships shall not be exempt from such assessment and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Any county, township, city or village assessed in its corporate capacity for benefits received shall provide for the payment of such assessments, installments thereof and interest thereon by levy of a general property tax against all the taxable property therein in accordance with law, and no land situated within such public corporation subject to such tax shall be assessed separately by the district board. No tax limitation provided by any statute of this state shall apply to tax levies made by any such public corporation for the purpose of paying any special assessments made in accordance with the provisions of this Act.

§ 26. Assessment List To Be Prepared; Contents; Certificate Attached To Assessment List. Preparation Of Assessment List And Notice Of Hearing Of Objection To List. Alteration Of Assessments At Hearing; Limitations. Confirmation Of Assessment List Of Board Certifying List; Filing.) The board shall make or cause to be made a complete list of the benefits and assessments setting forth each county, township, city or village assessed in its corporate capacity as well as each lot, piece or parcel of land assessed, the amount each is benefited by the improvement and the amount assessed against each. There shall be attached to the list of assessments a certificate signed by a majority of the members of the board certifying that the same is a true and correct assessment of the benefit therein described to the best of their judgment and stating the several items of expense included in the assessment. The board shall cause such assessment list to be published once each week for two successive weeks in a newspaper of general circulation in the district together with a notice of the time when, and place where, the board will meet to hear objections made to any assessment by any interested party, his agent, or attorney. The date set for such hearing shall be not less than fifteen days after the first publication of the notice. At the hearing, the

board may make such alterations in the assessments as in its opinion may be just and necessary to correct any error in the assessment as may be just and necessary but must make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which such assessments are made, or the part of such cost to be paid by special assessment. No assessment shall exceed the benefit as determined by the board to the parcel of land or political subdivision assessed. The board shall then confirm the assessment list and the secretary shall attach to the list his certificate that the same is correct as confirmed by the board and thereupon shall file the list in his office.

§ 27. Correction Of Errors, And Mistakes Of Special Assessments; Regulations Governing.) If errors or mistakes occur in making of any assessment in respect to the total cost of the improvement or otherwise or if there is a deficiency in any assessment the board shall cause additional assessments to be made in a manner substantially complying with chapter 40-26 of the North Dakota Revised Code of 1943 as the same relates to special assessments within municipalities.

§ 28. Certification Of Assessments To County Auditor.) When a district board of commissioners has by resolution levied, or caused to be levied, special assessments to cover the cost of constructing a water conservation or flood control project, the board shall determine the rate of interest unpaid special assessments shall bear, which rate shall not exceed seven percent per annum and shall not be less than the warrant rate. Interest on unpaid special assessments shall commence on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which shall be due and payable not more than thirty years after date of the warrants to be paid. The secretary of the district shall certify to the county auditor of the county in which the district is situated, or if the district embraces lands situated in more than one county, to the county auditor of each county in which district lands subject to such special assessments are situated, the total amount levied against such lands in his county and the proportion or percentage of such amount assessed against each piece, parcel, lot or tract of land. The secretary of the district shall also file with the county auditor of each county in which district lands lie a statement showing the cost of the project, the part thereof, if any, which will be paid out of general taxes and the part to be financed by special assessments. Funds needed to pay the cost of maintaining a water conservation or flood control project may be raised in the same manner as funds were raised to meet construction costs.

§ 29. Extension Of Special Assessments On Tax Lists; Collection. Payment To Water Conservation And Flood Control District.) The county auditor of each county embracing territory situated within a water conservation and flood control district shall extend the special assessments certified to him on the tax list of the district for the current year and such assessments, with interest and penalties if any, shall be collected by the county treasurer as general taxes are collected and shall be paid to the treasurer of the district.

§ 30. Lien Of Special Assessment.) A special assessment imposed by a water conservation and flood control district, together with interest and penalties which accrue thereon shall be and remain a lien upon the property upon which the assessment is levied from the time the assessment list is approved by the board of commissioners until the assessment is fully paid. Such liens shall have precedence over all other liens except general tax liens and shall not be divested by any judicial sale. No mistake in the description of the property covered by the special assessment lien or in the name of the owner of such property shall defeat the lien if the assessed property can be identified by the description in the assessment list. This Act shall be notice to all subsequent encumbrances of the superior rank of special assessments imposed under the provisions hereof.

§ 31. Sale Of Property When General And Special Assessment Taxes Are Delinquent.) Special assessments imposed under this Act shall become due and delinquent and shall be subject to penalties for nonpayment at the same date and rates as first installments of real estate taxes with which same are usually collected according to law relating to payment of special taxes. Real property shall be sold to enforce the collection of special assessments or installments of special assessments which have become delinquent at the same time and in the same manner as provided in the title Taxation for the sale of real property for delinquent general taxes. The sale shall be made by the same officer making the sale as in the case of the sale of use property for general taxes. Delinquent general taxes and delinquent special assessments, or installments thereof, shall be advertised and sold together in one sum and one certificate shall be issued therefor.

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

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

§ 32. Warrants; Issuance; When Payable; Amounts; Interest; Interest Coupons.) A water conservation and flood control district may, at any time after entering into a contract for a water conservation or flood control project to be financed in whole or in part by special assessments, and in anticipation of the levy of such assessments and taxes, if any, issue warrants on the project fund, created for that purpose, payable at specified times, except that the first maturity date of any such warrant shall not be less than two years from the date of issuance. The warrants shall be issued in such amounts as in the judgment of the district's board of commissioners will be necessary after the taxes and assessments have been levied and spread for such project. Such warrants shall bear interest at a rate of not to exceed seven percent per annum, payable annually or semiannually. Coupons evidencing the interest for each year or half year, as the case may be, may be attached to the warrants payable in whole or in part out of special assessments shall state upon the face thereof the purpose for which issued and the project fund from which they are payable and shall be signed by the chairman of the board of commissioners and countersigned by the secretary of the district. Such warrants shall be in denominations of not more than one thousand dollars each. Such warrants shall be payable serially in such amounts as the board shall determine, extending over a period of not more than thirty years.

§ 33. Warrants May Be Used In Making Payments On Contract. Warrants Payable Out Of Fund On Which Drawn; May Be Used To Pay Special Assessments.) Special assessment warrants, including warrants payable in whole or in part out of special assessments, may be used in making payments on contracts for construction of the project for which the special assessment fund was created, or may be sold for cash at not less than par and accrued interest, and the proceeds thereof, less accrued interest, shall be credited to the construction account of such fund and shall be used exclusively to pay such contracts and construction costs. Any balance remaining in any construction account after completion of a project shall be transferred to the sinking-fund account of the assessment fund. The treasurer of the district shall pay special assessment warrants and the interest coupons attached thereto as they mature and are presented for payment out of the fund on

which they are drawn and shall cancel the warrants and coupons when paid.

§ 34. Refunding Special Assessment Warrants; Purposes For Which Such Warrants May Be Issued. Payment Of Warrants.)

Any water conservation and flood control district having outstanding special assessment warrants, payable in whole or in part out of collections from special assessments, which are past due or which are redeemable, either at the option of the district or with the consent of the warrant holders, may issue refunding special assessment warrants if there is not sufficient money in the project fund against which such warrants are drawn to pay the same. The issuance of refunding warrants shall be authorized by resolution of the board of commissioners. Such resolution shall describe the warrants to be refunded and the amount and maturity thereof. Such refunding warrants may be issued for any of the following purposes:

1. To extend the maturities of warrants payable in whole or in part by special assessments.
2. To reduce the interest on such warrants.
3. To equalize the general property tax which the district may be, or may become obligated to levy in order to cover deficiencies in the fund against which warrants were issued.

Refunding warrants shall bear such date, be in such denominations, and shall mature serially within such time, not exceeding twenty years from date of issue, as the board of commissioners shall determine. The average rate of interest on such warrants shall not exceed the average rate of interest on refunded warrants.

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

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

§ 35. Financial Reports; Liability For Deficiencies.) On the first Monday of each month the district treasurer shall report to the board of commissioners in writing the amount of money in the treasury, the receipts, if any, in the preceding month and the amount and items of expenditure during that month. Such report shall be verified and filed with the secretary of

the district. A verified copy of such report shall also be filed in the office of the county auditor of each county in which the district lies and shall be open to public inspection.

During the month of June of each year the board of commissioners shall prepare a complete statement of the condition of the finances of each district and shall cause the same to be filed with the county auditor of each county in which the district lies on or before July 1 next following. Such statement shall show separately and in detail the condition and resources of each and every assessment fund for the payment of project warrants of the district, including the amount of any anticipated deficit and the apportionment thereof. At its July meeting next following the filing of such statement of condition of any water conservation and flood control district, the county board shall examine such statement and make inquiry regarding same to determine whether or not the district has defaulted or may soon default on payment of its financial obligations as the same become due.

Whenever all special assessments, taxes, or other receipts, if any, appropriated and theretofore collected for a project are insufficient to pay the special assessment warrants issued against such project, with interest, the board of county commissioners of each of the counties wherein the district lies, upon the maturity of the last special assessment warrant, shall advance to the district project warrant fund an amount sufficient to pay the deficiency attributable to benefited property in each such county. If it appears to the county board at any time prior to the maturity of the last special assessment project warrant that a deficiency exists or is likely to occur within one year in such project warrant fund for the payment of principal or interest due or to become due on such warrants, the board of county commissioners of each of the counties wherein the district lies in order to forestall imminent deficiency in such fund or to promptly restore the ability of such fund to pay principal and interest punctually as the same become due shall advance to such project fund the amount necessary to cover the deficiency or anticipated deficiency attributable to benefited property in such county. In order to make such advances, the board of county commissioners of each of the counties shall levy a general tax upon the taxable property in the county, and may issue certificates of indebtedness against levies so made, or shall pay such advances from its general fund. Advances made by the county or counties shall be obligations of the district to be met out of any surplus in the district project warrant fund, and future district budgets and tax levies for the district after provision has been made for necessary current expenses. No tax limitation provided by any statute of this state shall apply to tax levies made by any

county for the purpose of making any advances in accordance with the provisions of this section provided that a board of county commissioners shall not levy the general tax herein provided if the electors in any county wherein the district lies have refused, pursuant to the election provided for in section 23 of this Act, to permit such levy to be made.

§ 36. Appeal From Decision Of Commission And Board Of Commissioners; Undertaking; Jurisdiction.) From any order or decision of the commission or of the board of commissioners, an appeal may be taken to the district court, by any person aggrieved, upon filing an undertaking in the sum of two hundred dollars with such sureties as may be approved by the clerk of the district court to which the appeal is taken. Such undertaking shall be conditioned that the appellant will prosecute such appeal without delay and will pay all costs adjudged against him in the district court. Such undertaking shall be executed to the commission or the board of commissioners, as the case may be, and may be sued on in the name of the obligee. Where the water conservation and flood control district is confined to the limits of one county, the appeal shall be taken to the district court of that county. When such district includes lands in two or more counties, the appeal shall be taken to the district court of the county in which the land which is claimed to be affected adversely by the order or decision appealed from lies.

§ 37. Appeal From Decision Of Commission Or Board Of Commissioners; How To Be Taken.) The appeal provided for in this Act when taken from the decision of the commission is taken by serving a written notice of appeal upon the state engineer, and when taken from a decision of the board of commissioners, the notice of appeal must be served upon one of the members, and upon the secretary of such board.

§ 38. Time For Taking Appeal From Commission Or Board Of Commissioners.) An appeal as provided herein when taken from a decision of the commission must be taken within thirty days after the order of the commission has been filed with the secretary of the water conservation and flood control district, and when taken from a decision of the board of commissioners, it must be taken within thirty days after such decision has been entered by the secretary of the board of commissioners.

§ 39. Filing Appeal; Docketing And Hearing Appeals; Final Judgment And Sending Back.) The appeal provided for in this Act shall be filed on or before the next term of the district court after such appeal is taken and the case shall stand for trial at such term. All appeals thus taken shall be docketed as other causes pending in the district court and the same shall

be heard and determined de novo. The district court may enter a final judgment, or in a proper case may send the same back with directions how to proceed.

§ 40. State's Attorney And Attorney General To Assist Boards; Employment Of Counsel.) The state's attorney of any county within which a district is located in whole or in part shall act as legal advisor of, and upon request shall render opinions in writing to, the board of commissioners, and shall prosecute any action in his county in eminent domain found necessary by the board of commissioners of the water conservation and flood control district, and also shall appear as attorney for such board of commissioners in any appeal that may be taken in his county from a decision thereof, as well as in any other litigation brought in his county against such board. The attorney general shall render such legal opinions or such other assistance as he is required to render to county and state officers. The board of water conservation and flood control district commissioners may, however, employ other counsel to advise and represent it in such actions and appeals and in its proceedings.

§ 41. Construction Of Bridges And Culverts; Cost Of.) Bridges and culverts needed to furnish passageway over a drain, established by a water conservation and flood control district, shall be constructed in conformity with the statutes relating to construction of culverts and bridges in and over drains established under jurisdiction of a county board of drain commissioners.

§ 42. How District May Be Dissolved Or Land Excluded Therefrom.)

1. If the board of commissioners of a water conservation and flood control district shall file with the state water conservation commission its petition requesting that the district be dissolved, or that territory therein be excluded therefrom, together with a certified copy of the board's resolution authorizing the signing of such petition, or if the commission is presented with such petition signed by more than fifty percent of the freeholders in a district, the commission shall fix a time and place for a public hearing on the petition. At least ten days prior to the date of the hearing, notice thereof shall be published in a newspaper of general circulation in the district. Any interested person may appear at such hearing and show cause why the petition should or should not be granted, and any interested person may, before such hearing is held, file with the commission his reasons in writing why the district should or should not be dissolved.

2. If, after the hearing the commission shall find that the reasons for establishing the district no longer exist, or that the boundaries of the district should be modified by excluding therefrom the territory described in the petition requesting exclusion thereof, the commission shall make and issue its order granting the petition subject to such conditions as the commission may impose. An appeal from such order of the commission may be taken to the district court of the county in which the district or a part thereof lies in the manner provided in this Act. Members of the board of commissioners and officers and employees of the district shall continue to act until the property of the district has been disposed of and district obligations settled and paid. None of the provisions of this Act shall be construed to limit or impair obligations of the district nor the rights of owners thereof. If a district has undertaken and agreed to operate and maintain flood control facilities or works constructed by, or with the aid of, the federal government, such district shall not be dissolved unless consented to in writing by the United States or its appropriate agency or department.
3. After the state water conservation commission issues an order permitting dissolution of a water conservation and flood control district, the board of commissioners thereof shall cause to be published in a newspaper of general circulation in the district a notice to creditors, except holders of district special assessment warrants, requiring any person having a claim against the district to file such claim with the secretary thereof within six months after the first publication of such notice. Such notice shall be published once each week for three consecutive weeks. The secretary of the district shall mail a copy of such notice to each creditor, except holders of district special assessment warrants. After such notice has been given as herein provided, a copy thereof together with an affidavit of publication and an affidavit of mailing shall be filed in the office of the state water conservation commission. No district shall be dissolved until its obligations, including improvement warrants, have been settled and paid, and until the property of the district has been disposed of.
4. When the property to be disposed of is estimated by the board of commissioners to be of a value of less than one hundred dollars it may, by resolution of the board, be sold at private sale. When the property to be disposed of is estimated of a value of more than one hundred dollars it shall be sold at public sale in the county where

it is located after notice of sale has been published at least once in a newspaper of general circulation in such county. Such sale shall be held not less than three nor more than six days after publication of notice of sale has been completed. Any balance remaining in the treasury of the district after all its obligations have been paid shall be covered into the general fund of each county in which the district lies in the share or proportion that the districts taxable valuation in such county bears to the aggregate taxable valuation of property in the district. When obligations of the district have been paid, and its property disposed of, the board of commissioners shall file with the state water conservation commission, and with the county auditor of each county in which district territory is located, a report stating that the district has disposed of its property and that all obligations of the district have been paid. Thereupon the commission shall make an order dissolving the district. A certified copy of such order shall be filed with the secretary of state and with the county auditor of each county in which territory in the district is situated.

§ 43. Proceeding To Judicially Confirm Contracts, Special Assessments And Other Acts.) The board of commissioners of a water conservation and flood control district before making any contract, or before levying special assessments, or issuing special assessment warrants, or before taking any special action, may commence a special proceeding in district court by which the proceeding leading up to the making of such contract, levying special assessments, issuing special assessment warrants or before taking any other special action, shall be judicially examined, approved and confirmed. Such judicial proceedings shall comply substantially with the procedure required in the case of judicial confirmation of proceedings, acts and contracts of an irrigation district.

§ 44. Penalty For Violation Of Chapter.) A violation of the provisions of this Act shall be a misdemeanor, punishable by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 45. Validating, Organization And Acts Of Water Conservation And Flood Control Districts.) Nothing contained in this Act shall be construed as impairing, invalidating or in any manner affecting the validity of acts or proceedings of water conservation and flood control districts created prior to the passage and approval of this Act. Any such district organized substantially in conformity with statutes in force and effect prior to the passage and approval of this Act is hereby declared

to be a valid and legal water conservation and flood control district, and shall have the powers and be subject to the obligations of a district duly organized under the provisions of this Act.

§ 46. Repeal.) Chapter 61-16 of the 1953 Supplement to the North Dakota Revised Code of 1943 and chapter 346 of the North Dakota Session Laws for 1955 are hereby repealed.

§ 47. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 20, 1957.

CHAPTER 384

H. B. No. 766
(Stockman)

JOINT USE OF DRAINS FOR CITY WATER SUPPLY

AN ACT

Providing for joint use of drains as water courses for city water supply under agreement of the board of drain commissioners and the city governing body; providing for public hearings on proposed agreements, for sharing of costs, and for permissive payments to owners of land originally assessed; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) The governing body of any city desiring to use an existing drain, with or without modification, as a water course or channel to provide a water supply for the city, may make application therefor to the board of drain commissioners of the county in which such drain is located. In such application there shall be set forth a comprehensive plan of joint use and of any proposed extensions, changes, connecting canals, mains or other contrivances for conducting the flow of water in, to or from said drain and an offer of payment by the city in a definite sum as a proportionate share of the cost of the existing drain, and a sum certain or a percentage offer for future maintenance costs.

§ 2.) Upon receipt of such application the board of drain commissioners shall call and give notice of a public hearing, in the manner provided for hearing on a petition to establish

a drain, and at such hearing shall receive all evidence and opinions offered for or against the application or of suggested modifications. After such hearing the board of drain commissioners and the governing body of the city may enter into an agreement for the joint use of such drain setting forth in such agreement the extent, conditions and nature of permitted use and action, the amount of payment to be made as proportionate share of original cost and the amount or percentage of costs of future maintenance to be paid by the city.

§ 3.) All moneys paid pursuant to such agreement shall be paid into the county treasury and be credited to the drain fund of such drain. In the discretion of the board of drain commissioners the amount received in payment of proportionate share of original cost of such drain which will not be required for future maintenance of the drain may be paid out to the owners of record, at the time of such payment, of land which was assessed for such drain. Applications for such payments shall be made in the form prescribed by the board of drain commissioners and payments shall be made by the execution and delivery of drain board warrants drawn on the drain fund. The payment to the owner or owners of each tract of land shall be a percentage of the total payment to be made to all the owners equal to the percentage of the cost of the drain which was assessed against such tract of land.

§ 4.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1957.

CHAPTER 385

H. B. No. 659

(Einarson, Christopher and Halcrow)

LEVY FOR ADMINISTRATIVE EXPENSE OF COUNTY
DRAINAGE BOARDS

AN ACT

To amend and reenact section 9 of chapter 347 of the North Dakota Session Laws of 1955 relating to levy for administrative expense of county drainage boards.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 9 of chapter 347 of the North Dakota Session Laws of 1955 is hereby amended and reenacted to read as follows:

§ 9. Levy For Administrative Expense; Payment Of Commissioners' Salaries And Overhead Expense.) The board of county commissioners shall have authority to levy a sufficient amount, not to exceed two-tenths mill in any year, upon all taxable real and personal property in the county for the purpose of paying salaries of drainage board commissioners, office and administrative expenses of the board, or other items of expense that cannot be directly allocated to any specific drainage district. Such levy shall be over and above any mill levy limitation provided by law and the proceeds thereof shall be placed in a special fund by the county treasurer, to be known as the "county drainage board fund" and shall be disbursed for the purposes stated in this section upon the order of the board of county commissioners.

Approved March 5, 1957.

CHAPTER 386

S. B. No. 240
(Luick and Morgan)

SETTLEMENT OF UNPAID DRAIN WARRANTS

AN ACT

Authorizing affected counties to compromise and settle outstanding and unpaid drain warrants issued pursuant to the establishment of a drain in two or more counties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) In the event that drain warrants which have been issued pursuant to the establishment of a drain in two or more counties remain unpaid and the amounts realized from the original assessments made are not sufficient to pay said warrants and an additional assessment would be necessary to meet such deficit, the board of county commissioners of any county affected, if such board finds that such county has received benefits from such drain by reasons of public health, convenience or welfare, as provided by law, and might therefore be liable for assessment or reassessment and that the credit of the county is or might be affected by the existence of such outstanding and unpaid warrants, may negotiate and execute a settlement with the owners of such warrants and pay the amount of such settlement from the general fund of the county.

Approved March 12, 1957.

CHAPTER 387

H. B. No. 699
(Einarson, Christopher, Halcrow, McInnes and Berntson)

CONSTRUCTION OF DRAIN BRIDGES AND CULVERTS

AN ACT

To amend and reenact section 32 of chapter 347 of the Session Laws of 1955 relating to the cost of building and maintaining bridges and culverts over and across drains.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** That section 32 of chapter 347 of the Session Laws of 1955 is hereby amended to read as follows:

§ 32. **Construction Of Bridges And Culverts; Cost Of.)** The board shall construct such bridges or culverts over or in connection with a drain as in its judgment may be necessary to furnish passage from one part to another of any private farm or tract of land intersected by such drain. The cost of the construction thereof shall be charged as part of the cost of constructing such drain, and such bridge or passageway shall be maintained under the authority of the board of drainage commissioners, and the necessary expense thereof shall be deemed a part of the cost of keeping such drain open and in repair. Whenever any bridge or culvert is to be constructed on a county or township highway system over and across or in connection with a drain, and the cost thereof shall exceed five hundred dollars, the cost of constructing such bridge or culvert shall be shared in the following manner: The state water conservation commission may, if funds are available therefor, participate in the portion of the cost thereof that exceeds five hundred dollars in accordance with such rules and regulations as it may prescribe. The remaining cost thereof shall be borne on the basis of forty percent by the county and sixty percent by the water conservation and flood control district or the drainage district which has created the need for such construction. If, however, moneys have not been made available to the commission for such participation, then and in that case, forty percent of the cost of a bridge or culvert costing in excess of one hundred dollars shall be paid by the county and sixty percent shall be charged as cost of the drain to the drainage district. Whenever any bridge or culvert costing one hundred dollars or less is needed on any such road the cost of such bridge or culvert shall be charged on the basis of sixty percent to the water conservation and flood control district or the drainage district and forty percent shall be borne by the township in which such bridge or culvert is located.

In the case of such bridge or culvert construction where there is federal financial participation, if there are costs exceeding the amount of such federal participation then the excess balance shall be borne by the water conservation and flood control district, drainage district, county, or township, according to the foregoing provisions of this section, as the case may be.

Approved March 20, 1957.

CHAPTER 388

H. B. No. 662

(Halcrow, Einarson and Christopher)

PETITION FOR LATERAL DRAIN

AN ACT

To amend and reenact section 38 of chapter 347 of the North Dakota Session Laws of 1955 relating to lateral drains, and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 38 of chapter 347 of the North Dakota Session Laws of 1955 is hereby amended and reenacted to read as follows:

§ 38. Petition For A Lateral Drain; Bond Of Petitioners; Penalty.) 1. All property owners whose property would be affected by a lateral drain may jointly petition the board for the construction of such drain and shall deposit with the board a good and sufficient bond to be approved by the board, conditioned upon the petitioner or petitioners paying all costs of the proposed lateral drain. Whenever improvements of an original drain are made necessary by the construction of a lateral drain the costs of such improvements to the main drain shall be charged as part of the cost of construction of the lateral drain and assessed against the property benefited thereby and collected as other assessments are collected. Unless the petitioners agree to construct the lateral drain, the board within ten days shall commence proceedings for the construction of such lateral drain according to the provisions of this Act. No person shall dig or construct any lateral ditch or drain which will conduct the flow of water from any land or lands into any drain constructed under the provisions of this Act, except the petitioners as provided in this section. In all instances involving the construction of a lateral drain, the board shall estimate and determine the proportionate share of the cost of the main or original drain which should be paid by such petitioners. The petitioners shall pay into the county treasury the amount so determined, and they shall then be allowed to connect such lateral ditches or drains with the main drain under the direction and superintendence of the board, but at their own cost and expense. The money paid into the county treasury shall be credited to the drainage fund of the specific drain involved.

2. Where a majority of the property owners to be benefited by the construction of a lateral drain or ditch petition the county drainage board for the construction of a lateral drain or ditch, the county drainage board shall then proceed in the same manner as is used for the establishment of a new drain and thereafter such lateral drain shall constitute a part of the main drain to which it is connected and the affected property shall be a part of such drainage district.

3. If any such lateral drain or ditch is constructed without complying with the provisions of this section the county drainage board may fill in or block up the drain or ditch or cause the same to be done, and such cost of filling or blocking the drain or ditch shall be charged to the person or persons causing such lateral drain or ditch to be constructed, and in addition the county drainage board may apply to the district court for an injunction prohibiting such person or persons from constructing or continuing the operation of a lateral drain or ditch without complying with the provisions of this section.

4. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 20, 1957.