

## **Watershed District Law**

TCA §69-6-101

Title 69 Waters, Waterways, Drains and Levees, Chapter 6 Watershed Districts

### **69-6-101. Short title.**

This chapter shall be known as the "Watershed District Act of 1955."

**HISTORY:** Acts 1955, ch. 112, § 1; T.C.A., § 70-1801; T.C.A. § 69-7-101.

### **69-6-102. Chapter definitions.**

As used in this chapter, unless the context otherwise requires:

**(1)**"Board" means the board of directors of a watershed district;

**(2)**"District" means a watershed district for which organization is proposed or which has been granted under this chapter;

**(3)**"Land" means "real property" as defined by the laws of this state and includes, but is not limited to, easements, water rights, or any other interest in real property;

**(4)**"Landowner" means any person owning any interest in land located in a district, including tenants in common, tenants by the entirety, joint tenants, life tenants, owners of dower or courtesy rights, vested beneficiaries of the remainder interests, and the holders of leasehold interests of more than three (3) years' duration. Where more than one (1) person owns any such interest in a particular tract of land, each shall be deemed a "landowner" for the purpose of this chapter;

**(5)**"Person" means any person, firm, partnership, association or corporation;

**(6)**"Publication" means the publication in a newspaper or newspapers admitted to the United States mail as second-class matter, of general circulation within the watershed district; and

**(7)**"Voter" means any landowner of the district who is more than eighteen (18) years of age and who is sui juris.

**HISTORY:** Acts 1955, ch. 112, § 2; impl. am. Acts 1971, ch. 162, § 3; T.C.A., § 70-1802; T.C.A. § 69-7-102.

### **69-6-103. Organization of district -- Petition -- Copies -- Certification -- Filing.**

**(a)(1)** Before any watershed district is organized, a petition shall be filed in the office of the state soil conservation committee, signed by not less than twenty percent (20%) of the landowners of the real property, and representing twenty-five percent (25%) of the acreage within the proposed district, as shown by a verified enumeration of the landowners taken by a landowner of the proposed district to be selected by the first ten (10) signers of the petition. In the event the proposed district embraces land in more than one (1) county, the enumeration shall be separated as to counties.

**(2)(A)** A verified copy of the enumeration shall be filed with the county clerk of each county in which any portion of the proposed district is located.

**(B)** A duplicate copy of the petition, containing the text of the petition in full, shall be filed with the county clerk of each county where any part of the proposed district lies.

**(b)** There shall be filed with the state soil conservation committee, as an exhibit to the petition, a certification as to the number of landowners within the proposed district, that the petition is

signed by not less than twenty percent (20%) of such landowners, and that the signers of the petition represent twenty-five percent (25%) of the acreage within the proposed district. The certification as to each respective county shall be signed by the county clerk, or the county tax assessor of such county.

**HISTORY:** Acts 1955, ch. 112, §§ 3, 5; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., §§ 70-1803, 70-1805; impl. am. Acts 1984, ch. 687, § 3; T.C.A., § 69-7-105; T.C.A. § 69-7-102.

#### **69-6-104. Contents of petition.**

(a) The petition shall set forth:

(1)(A) The proposed name of the district;

(B) Wherever practical the name of the district shall include the name of the principal body of water located in the watershed, such as "\_\_\_\_\_ Watershed District";

(C) The state soil conservation committee is empowered to reject the proposed name where a watershed district previously established has the same or a closely similar name;

(2) A description of the boundaries of the area to be included in the district;

(3) A statement of the purposes for which the district is to be organized;

(4) A statement of the number of persons who shall constitute the temporary board of directors of the district, which shall be not less than five (5) nor more than nine (9), together with the names and addresses of the persons who will constitute the original board of directors, with the term of office of each set forth beside the corresponding name, and with one (1) member designated as acting chair; and

(5) A prayer for the organization of the district as a nonprofit corporation.

(b) A map showing the boundaries of the district shall be attached to the petition as an exhibit and incorporated in the petition by reference.

(c) The petition shall be sworn to by not less than five (5) of the signers.

**HISTORY:** Acts 1955, ch. 112, § 4; T.C.A., § 70-1804; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-104.

#### **69-6-105. [Reserved.]**

#### **69-6-106. Determination of sufficiency -- Notice to acting chair.**

The state soil conservation committee shall determine the sufficiency or insufficiency of the petition and the exhibits to the petition, including the certification by the county clerk, or county tax assessor, required in § 69-6-103. If the petition and the attached exhibits meet the requirements of this chapter, the state soil conservation committee shall issue notice that the petition has been found sufficient in form to the acting chair of the board as set forth in the petition.

**HISTORY:** Acts 1955, ch. 112, § 6; T.C.A., § 70-1806; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-106.

#### **69-6-107. Organizational meeting -- Establishing the district.**

(a) Upon receiving notification of the sufficiency of the petition from the state soil conservation committee, the acting chair of the board of the proposed district shall call a meeting of the board by mailing a written notice, fixing the time and place of such meeting, to each member of

the board at least five (5) days in advance of the time so fixed, unless such notice is duly waived. In addition, the chair shall post a copy of the notice at a conspicuous place at the courthouse door of each county in which any part of the proposed district is located.

**(b)**The members of the board named in the petition have all powers necessary in matters looking to the establishment of the district and, upon the establishment of the district, shall continue to serve as directors until their successors are duly elected and qualified.

**(c)**The members of the board shall meet at the time and place fixed in such notice for the purpose of electing from their number a president, a vice president, a secretary and a treasurer, and for the purpose of calling, by resolution, an election of the voters in the district, as defined in this chapter, for the purpose of submitting to the voters the question of whether the district shall be organized and created in accordance with the petition.

**HISTORY:** Acts 1955, ch. 112, § 6; T.C.A., § 70-1807; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-107.

#### **69-6-108. Conduct of election -- Voting places -- Judges and clerks.**

**(a)**The board shall designate one (1) or more centrally located voting places within the proposed district, but if the territory of such proposed district lies in more than one (1) county, then at least one (1) voting place shall be designated within each county of the proposed district in which more than fifteen (15) voters reside, and if there are less than fifteen (15) eligible voters, the board shall designate an adjacent county in the district in which they shall vote.

**(b)**The board shall name and appoint three (3) judges and two (2) clerks for each designated voting place. The judges and clerks shall take oath to perform faithfully their duties as judges and clerks, respectively, and shall receive compensation for their services as may be prescribed by the board, which shall not exceed the per diem allowed election officers for holding general elections in the county.

**(c)**No member of the board shall be eligible to serve as a judge or clerk in any water district election.

**HISTORY:** Acts 1955, ch. 112, § 6; T.C.A., § 70-1808; T.C.A. § 69-7-108.

#### **69-6-109. Election notice.**

**(a)**The president and secretary shall cause a notice of the special election to be published for three (3) consecutive weeks in some newspaper of general circulation within the proposed district, the first publication to be not less than twenty-one (21) days prior to such election. If the proposed district lies in more than one (1) county, then a similar notice shall be published in a newspaper of general circulation in each of the counties in which a part of the proposed district is located.

**(b)**The election notice shall set forth the time and place or places of holding the election, the proposal to be voted on, and the purposes for which the proposed district is to be created. The following proposition to be voted on shall be set forth in such notice:

Q. Shall the board of directors proceed with the creation of the proposed watershed district in accordance with the Watershed District Act of 1955?

**(c)** The notice shall be signed by the president and attested to by the secretary of the board.

**HISTORY:** Acts 1955, ch. 112, § 6; T.C.A., § 70-1809; T.C.A. § 69-7-109.

**69-6-110. Form of ballot -- Qualifications of voters -- Filing results.**

(a) The vote at such election shall be by ballot, and such ballot shall comply with the usual requirements for an official ballot for public office insofar as such requirements are applicable. Upon such ballot shall be printed the following question:

Shall the board of directors of the proposed \_\_\_\_\_ Watershed District proceed with the creation of the district in accordance with the Watershed District Act of 1955? Yes  No .

To vote for the proposal, the voter shall make a cross mark (x) in the square after the word "yes." To vote against the proposal, the voter shall make a cross mark (x) in the square after the word "no."

(b) Any person who is qualified to vote in accordance with the definitions contained in this chapter shall be entitled to vote.

(c) The ballots shall be counted by the judges and clerks holding the election before leaving the polling place, and the results of the election shall be certified by the judges and clerks to the secretary of state. Members of the board and any landowner in the proposed district shall be entitled to be present when the ballots are counted.

(d) The ballots and a copy of the certificate shall be filed with the county clerk in every county where such an election is held.

**HISTORY:** Acts 1955, ch. 112, § 6; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 70-1810; T.C.A. § 69-7-110

**69-6-111. Issuance of charter -- Form -- Recordation.**

(a) If a majority of the landowners voting in the election provided in §§ 69-6-106 -- 69-6-110 vote in favor of the organization and creation of the district, the state soil conservation committee shall issue a charter for the district in the same manner as other general welfare corporation charters are issued under the laws of this state.

(b) The form of the charter shall be substantially as follows:

State of Tennessee--Charter of Incorporation

(c) The charter shall be placed on record in the offices of the register of deeds of each county in which any portion of the district lies. Upon such recordation of its charter, the district shall be authorized to function in accordance with its charter and this chapter.

**HISTORY:** Acts 1955, ch. 112, § 7; T.C.A., § 70-1811; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-111.

**69-6-112. Adverse vote on organization -- Endorsement -- New application.**

If a majority of the landowners voting on the proposition shall vote against the organization and creation of the district, the state soil conservation committee shall endorse that fact on the face of the petition and the proceedings shall be closed. A second application containing substantially the same or the same boundaries within a watershed shall not be considered by the state soil conservation committee within eighteen (18) months.

**HISTORY:** Acts 1955, ch. 112, § 7; T.C.A., § 70-1812; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-112.

**69-6-113. Officers of district -- Duties -- Treasurer's bond.**

**(a)(1)**The officers of the district shall be a president, vice president, secretary and treasurer.

**(2)**The president presides over all meetings of the board and serves as chief executive officer of the district.

**(3)**The vice president presides in the absence of the president and performs other duties as may be prescribed by the board.

**(4)**The secretary keeps a full and accurate record of all the proceedings concerning the district and records of the district.

**(5)**The treasurer is the custodian of all funds of the district. The treasurer shall make bond, secured by a corporate surety, to safeguard all funds coming into the treasurer's hands, in such amount as shall be prescribed by the board of directors. The premium upon the bond shall be paid by the district.

**(b)**All checks for expenditures shall be signed by the treasurer and countersigned by the president.

**(c)**The duties of secretary and treasurer may be combined in one (1) person, to be designated as secretary-treasurer.

**HISTORY:** Acts 1955, ch. 112, § 8; T.C.A., § 70-1813; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-113.

**69-6-114. Open board meetings.**

All meetings of the board, including the organization's meeting provided for in §§ 69-6-106 -- 69-6-110, are open to the public, and any landowner, landowner's agent or attorney, is entitled to attend and to be heard.

**HISTORY:** Acts 1955, ch. 112, § 9; T.C.A., § 70-1814; T.C.A. § 69-7-114.

**69-6-115. Filing fees.**

**(a)**The state soil conservation committee is not entitled to collect any fee for the filing of the petition, the issuing of the charter, or other services rendered by it under this chapter.

**(b)**The fee of the county register for recording the charter of such district shall be one dollar (\$1.00).

**(c)**The county clerk and the county tax assessor are not entitled to any fee for the services required to be rendered by them under this chapter.

**HISTORY:** Acts 1955, ch. 112, § 10; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 70-1815; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-115.

**69-6-116. Funding of expenses -- No election without sufficient funds.**

**(a)**For the purpose of paying the costs of the election provided by §§ 69-6-106 -- 69-6-110, and for the purpose of paying the costs of recording the charter of such district, and any other necessary expenses incurred in the organization of the district, the board is empowered to receive contributions from private sources, or from counties, cities and towns located within such district.

**(b)** The legislative body of each county and the governing body of each city or town located within any such district is authorized and empowered to appropriate funds for such expenses, which are hereby declared to be for a public purpose.

(c) No election shall be held under this chapter until sufficient funds to defray the expenses of such election have been received by the board.

**HISTORY:** Acts 1955, ch. 112, § 11; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 70-1816; T.C.A. § 69-7-116.

**69-6-117. Alternative method for establishment of district -- Procedure.**

(a) As an alternative method for the establishment of a watershed district, any such district may be organized and established in the same manner as a levee and drainage district by the procedure set forth in chapter 5 of this title.

(b) In event this alternative procedure is followed, it will not be necessary to file a petition with the state soil conservation committee, and chapter 5 of this title shall apply to the organization of the district.

(c) Any watershed district that is organized by following the procedure prescribed by chapter 5 of this title has the same objectives and purposes and possesses the same powers as provided for in this chapter.

**HISTORY:** Acts 1955, ch. 112, § 12; T.C.A., § 70-1817; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-117.

**69-6-118. Corporate nature of district -- Powers.**

(a) Each watershed district incorporated under this chapter is a body politic and corporate and has the following powers necessary for carrying out the purposes set forth in this chapter to:

(1) Adopt a seal;

(2) Sue and be sued by its corporate name;

(3) Purchase, hold, sell and convey land and personal property, and execute such contracts as may be deemed necessary or convenient by its board of directors to enable it to properly carry out the purposes for which organized;

(4) Conserve soil and water and to retard floods and develop the water resources of the district;

(5) Contract for the construction of proposed works and improvements;

(6) Employ such professional services and other assistance as are by its board deemed essential;

(7) Construct any drainage works or improvements; to construct any works or improvements for the control, retention, diversion, or utilization of water; retard runoff of water and soil erosion; construct ditches, channel improvements, dikes, levees, flood prevention reservoirs, water conservation reservoirs, or irrigation reservoirs or facilities, parks, and other recreational facilities, and repair, improve and maintain any of such improvements or structures;

(8) Acquire personal property by gift or purchase;

(9) Acquire land, or any interest in land, including leasehold interests, by gift or purchase;

(10) Issue bonds and incur indebtedness within the prescribed limitations of this chapter;

(11) Cooperate and contract with persons, firms, associations, partnerships and private corporations, and with other watershed districts, drainage districts, counties, conservation districts, levee districts, counties, cities, quasi-municipalities, utility districts, and other similar corporations or agencies of the state of Tennessee, and with any such districts or agencies organized for similar purposes in any adjoining state, and with other local, state and federal agencies, including, but not limited to, the Tennessee department of agriculture, department of environment and conservation, Tennessee Valley authority, corps of army engineers, the

secretary of defense, United States department of agriculture, or any other federal agency, and to enter into cooperative contracts and agreements with any such districts, corporations or agencies;

**(12)**Extend district boundaries or merge with adjoining watershed or drainage districts in accordance with the procedure provided in this chapter;

**(13)**Select a residence or home office for the watershed district, which shall be at a place designated by the board;

**(14)**Exercise all the powers or receive all benefits, or both, relating to watershed districts prescribed in any other act of congress;

**(15)**Exercise all the powers conferred upon levee and drainage districts by chapter 5 of this title;

**(16)**Receive contributions or grants from counties, cities and towns, or from any state or federal agency, or from any other source;

**(17)**Acquire water rights and distribute or sell water for irrigation or for other purposes, either within or without the district;

**(18)**Provide recreational facilities;

**(19)**Lease district-owned lands for agricultural or other purposes;

**(20)**Contract for all materials, supplies, equipment, personnel, and services necessary for the proper administration of the district;

**(21)**Expend funds for any purpose set forth in this chapter;

**(22)**Take such steps as deemed necessary by its board of directors for the promotion and protection of public health within the boundaries of the district, and enter into agreements with private nonprofit corporations, the department of environment and conservation, or any local public health unit, the state stream pollution board, or any other federal, state or local agency for that purpose;

**(23)**Take such steps as deemed necessary for fire prevention, and for this purpose to enter into cooperative agreements with the department of environment and conservation, or any other federal, state or local agency; and

**(24)**Make all needful rules, regulations and bylaws for the management and conduct of the affairs of the district and of the board.

**(b)**None of the powers enumerated in subsection (a) shall be exhausted by use but shall be continuous and perpetual throughout the life of the district.

**(c)**A watershed district may not regulate or impose any permitting requirements on any facility or improvement that is subject to the requirements of title 59; title 68, chapter 201, 202, 211, 212, 213, 215, or 221; or chapter 3 of this title. No permit for any solid waste management facility shall be issued by the commissioner of environment and conservation before eighteen (18) months after April 30, 1993, for any site located within the boundaries of a watershed district whose charter was issued on or before October 5, 1990, where the watershed district is located within a metropolitan government having a population of over one hundred thousand (100,000), until such time as the board of the watershed district approves the location of the solid waste management facility. A watershed district may not limit any acceptable and commonly used agricultural practice as recognized by Tennessee's Land Grant University School of Agriculture.

**HISTORY:** Acts 1955, ch. 112, § 13; T.C.A., § 70-1818; Acts 1992, ch. 693, § 1; 1993, ch. 254, §§ 1-4; T.C.A. § 69-7-118; Acts 2006, ch. 863, § 11.

**69-6-119. Study of watershed area.**

Upon the incorporation of the watershed district, the board shall cause a study to be made of the watershed area to be served by the district. The board has the power to employ engineers, surveyors and other personnel necessary for such study and to have prepared surveys, maps, profiles, plans and descriptions, and such other data as may be necessary to establish the boundaries of the area that can be served by the district to the best advantage.

**HISTORY:** Acts 1955, ch. 112, § 14; T.C.A., § 70-1819; T.C.A. § 69-7-119.

**69-6-120. Change of boundaries -- Election procedure.**

**(a)** In the event that such study shall establish that the areas embodied in the charter originally issued by the state soil conservation committee need to be enlarged or diminished, or that the boundaries set forth in the charter are substantially and materially insufficient or inaccurate to reasonably describe the district, a petition shall be filed with the state soil conservation committee, conforming to the requirements of §§ 69-6-103 and 69-6-104.

**(b)(1)** If the petition is granted in accordance with those sections, the officers of the district shall proceed as provided in §§ 69-6-106 -- 69-6-110.

**(2)** Those entitled to vote shall be persons who are entitled to vote within the district and all landowners outside the district, but being landowners in the area proposed to be taken into the district; provided, that the landowners outside the district who shall be entitled to vote are those who are more than eighteen (18) years of age and are sui juris.

**(3)** The notices required in §§ 69-6-106 -- 69-6-110 shall contain an accurate description of the areas to be taken into or excluded from the district.

**(c)** The question on the ballot shall be as follows:

Q. Shall \_\_\_\_\_ watershed district be enlarged by taking into the district the properties commonly known as the \_\_\_\_\_ and \_\_\_\_\_ places (lands), or parts thereof, as specifically described in the notices heretofore given in accordance with §§ 69-6-119 -- 69-6-121 of the Tennessee Code?

A. Yes

B. No

If the district is to be diminished, the following language shall be inserted: "diminished by excluding from the district" in lieu of the language: "enlarged by taking into the district."

**HISTORY:** Acts 1955, ch. 112, § 14; impl. am. Acts 1971, ch. 162, § 3; T.C.A., § 70-1820; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-120.

**69-6-121. Certification of results -- Issuance of amended charter -- Recordation.**

**a)** The result shall be certified to the state soil conservation committee in accordance with §§ 69-6-106 -- 69-6-110.

**(b)** If the vote is favorable, an amended charter shall be issued and shall substantially follow the form prescribed in §§ 69-6-111 and 69-6-112, but shall show on its face that it is an amended charter, issued in accordance with this section.

(c) The amended charter shall become effective after it has been duly recorded in the register's office in every county having lands lying within the district.

**HISTORY:** Acts 1955, ch. 112, § 14; T.C.A., § 70-1821; impl. am. Acts 1984, ch. 687, § 3; T.C.A. § 69-7-121

**69-6-122. Board of directors of district.**

(a) All powers granted to watershed districts incorporated under this chapter shall be exercised by a board of directors, which shall be composed of not less than five (5) nor more than nine (9) members.

(b) Representation on the board shall be fairly spread among the counties included within the boundaries of the district. Each county with more than fifteen (15) landowners owning land within the boundaries of the district shall be entitled to at least one (1) director.

(c) The exact number of directors shall be specified in the petition filed with the state soil conservation committee for the creation of the district.

(d)(1) Membership on the board may be staggered in the manner as set forth in such petition. Each director shall serve for a period of six (6) years and until such director's successor is duly elected and qualified.

(2)(A) The bylaws of the board of directors shall establish the manner in which the directors shall be appointed or reappointed following such initial six-year term. The bylaws, at a minimum, shall:

(i) Provide for representation on the board to be fairly spread among the counties included within the boundaries of the district; and

(ii) Designate which county or municipal officials shall be the appointing authorities.

(B) A public hearing shall be held on the proposed bylaws or any amendments to the bylaws. Prior to the public hearing, publication shall be made for two (2) consecutive weeks in a newspaper of general circulation published in each county within the boundaries of the district as to the date, time and purpose of the hearing.

(C) The bylaws, and any amendments to the bylaws, shall be filed with the county clerk of each county within the boundaries of the watershed district.

(e) Directors shall serve without compensation, but shall be allowed actual and necessary expenses incurred in the performance of their actual duties.

(f) Vacancies shall be filled by the remaining members, or by petition of five percent (5%) of the landowners. The county legislative body or chancery court may fill such vacancies if the remaining members fail to act within ninety (90) days after such vacancy occurs.

**HISTORY:** Acts 1955, ch. 112, § 15; T.C.A., § 70-1822; impl. am. Acts 1984, ch. 687, § 3; Acts 1997, ch. 103, § 1; T.C.A. § 69-7-122.

**69-6-123. Election of directors -- Failure of board to perform duties -- Election of new board.**

(a) Within thirty (30) days after the permanent boundaries of the district are established as prescribed in §§ 69-6-119 -- 69-6-121, an election shall be held for the election of directors. Notice of this election shall be given at least ten (10) days prior to the date of the election by one (1) publication in a newspaper of general circulation in each of the counties of which the district is a part. Such election shall be by ballot, and shall be conducted in the same manner as

prescribed in §§ 69-6-106 -- 69-6-110. Subsequent elections shall be called by the board from time to time as membership on the board shall expire.

**(b)(1)**In the event the board of directors fails or refuses to take steps to proceed with the promotion of watershed district activities, or fails to take steps to effectuate the purposes for which the district was organized, or fails to hold two (2) consecutive quarterly board meetings as required by § 69-6-124, five percent (5%) of the qualified voters of the watershed district may petition the county legislative bodies of the counties having lands within the district to elect a new board.

**(2)**The petition may be filed with the county clerk of any county having lands within the district. Such petition shall be presented to the next regular or special meeting of the county legislative body, and such county legislative body shall proceed to consider the merits of the petition and if a majority of the members present vote to sustain the petition, the county legislative body shall proceed to elect successors to the members of the board residing in that county.

**(3)**The county clerk of that county shall then certify a copy of the petition to each of the other counties having lands in the district and, at the next special or regular meeting of the county legislative bodies of such counties, it shall be mandatory that such county legislative bodies elect successors to the members of the board residing in the respective counties.

**(c)**The action of the county legislative body in which the petition is first filed determining whether the petition should be sustained shall be final and conclusive and is not be subject to review by any court.

**(d)**The incumbent board members shall be ineligible to be elected to the new board. The new board members shall serve during the unexpired terms of their predecessors.

**(e)**In the event a petition is rejected by any county, a similar petition shall not be entertained by any county within the district for a period of one (1) year after such rejection.

**HISTORY:** Acts 1955, ch. 112, § 15; 1961, ch. 342, § 1; impl. am. Acts 1978, ch. 934, §§ 7, 22, 36; T.C.A., § 70-1823; T.C.A. § 69-7-123.

#### **69-6-124. Board meetings -- Executive sessions prohibited.**

**(a)**Regular meetings of the board of directors shall be held quarterly at the offices of the corporation on such day as is selected by the board. Notice of such meeting shall be mailed to each director at least five (5) days prior to the date of the meeting, and special meetings may be held at any time upon waiver of notice of a meeting by all directors, or may be called by the president or any two (2) directors at any time.

**(b)**A majority of the directors constitutes a quorum for the transaction of business.

**(c)**Each meeting of the board, whether regular or special, is open to the public, and the board shall at no time go into executive session.

**(d)**Watershed districts are authorized to compensate each member of the board a reasonable amount for attending any meeting of such board. Such compensation shall not exceed the rate at which county commissioners of the county in which the watershed district is headquartered are compensated for attending county commission meetings. Compensation shall be paid out of funds available to the watershed district and not otherwise appropriated.

**HISTORY:** Acts 1955, ch. 112, § 16; T.C.A., § 70-1824; Acts 1991, ch. 109, § 1; T.C.A. § 69-7-124.

#### **69-6-125. Employment of counsel.**

The directors of a watershed district are authorized to employ attorneys to assist in all matters relating to the affairs of the district, including preliminary matters necessary for the establishment of the district. The cost of such legal services shall be an obligation of the district and paid in the same manner as the expenses of the district.

**HISTORY:** Acts 1955, ch. 112, § 17; T.C.A., § 70-1825; T.C.A. § 69-7-125.

**69-6-126. Contribution by county, city or town -- Tax levy.**

The county legislative body of any county, any part of which is located within a watershed district, or the governing body of any city or town within, adjacent to or in the proximity of a watershed district, has the right to contribute, out of the general fund of such county or city, such amount as such legislative body sees fit, to be used in the preliminary expenses of the district, or in the maintenance of the district, or for capital improvements or projects of the district. County legislative bodies and governing bodies of cities or towns are empowered to levy and collect ad valorem taxes for the purpose of contributing to a watershed district, which are hereby declared to be for municipal and county public purposes.

**HISTORY:** Acts 1955, ch. 112, § 18; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 70-1826; T.C.A. § 69-7-126.

**69-6-127. District by mutual agreement.**

The landowners may provide for the establishment of a watershed district upon their own lands and at their own expense by mutual agreement in writing duly signed, acknowledged and filed with the county clerk.

**HISTORY:** Acts 1955, ch. 112, § 19; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 70-1827; T.C.A. § 69-7-127.

**69-6-128. Merger of districts.**

Watershed districts may be merged or consolidated by the unanimous vote of the board of directors of such districts, concurred in by a majority of the voters of each district in an election conducted as provided in §§ 69-6-106 -- 69-6-110. Such resolutions shall be recorded in the register's office in every county having lands within such merged or consolidated district.

**HISTORY:** Acts 1955, ch. 112, § 20; T.C.A., § 70-1828; T.C.A. § 69-7-128.

**69-6-129. District projects or improvements -- Petition -- Bond.**

**(a)(1)** Before any contract is let or work begun upon any plan, improvement or project within the district, the cost of which, excepting rights-of-way and maintenance, is to be financed by special assessments, by obligations of the district, or by any method of deferred payments, and not exclusively financed by funds on hand, grants in aid, or gifts to the district, there shall be filed by the board of directors of the district in the county court of the county in which the lands embraced in such district are located or in the event the district covers more than one (1) county, in the county court of the county in which the greatest number of acres of land in the district is situated, a petition describing in detail:

**(A)** Such work plan or project;

**(B)** Its scope and geographical location, including starting point, route and terminus;

**(C)** The tracts of land considered to be benefited and in what proportion or ratio, if all of the lands in the district are not benefited by the plan or project;

(D)The estimated cost of the project;

(E)The economic feasibility of the plan or project; and

(F)The proposed method of financing the costs of the plan or project.

(2)The petition shall be accompanied by a general plat and general specifications for the plan or project contemplated.

(b)A cost or prosecution bond shall be required as in other cases in such court.

**HISTORY:** Acts 1955, ch. 112, § 21; T.C.A., § 70-1829; T.C.A. § 69-7-129

**69-6-130.Hearing on petition -- Publication of notice -- Objections.**

(a)Upon the filing of a project petition, the court in which the petition is filed shall set a day for the hearing and direct that publication be made as to all landowners, lienholders, encumbrancers, mortgagees, occupants, or other persons interested in any way in the lands to be affected by the proposed improvement in some newspaper of general circulation published in each county in which are located lands affected by the proposed project, the publications to be run once a week for three (3) consecutive weeks, the last of which shall be at least ten (10) days before the date set for the hearing.

(b)Such publication shall:

(1)Notify the interested persons and landowners of the general nature and scope of the proposed project, the estimated cost of the project, the proposed method for the payment of the cost and the time and place of the hearing, and shall notify them to appear and show cause why such project should not be approved and performed and the cost provided or apportioned in accordance with the prayer of the petition; and

(2)Set forth the names of the owners of the lands in the area affected by the proposed project to the best of the information and belief of the board, but such publication need not set forth the names of the persons concerned other than as owners of the lands affected.

(c)The notice of publication shall have the same force and effect upon concerned non-landowners as landowners whether they are specifically named or not, and whether they are residents or nonresidents of the state of Tennessee, for all purposes of the proceedings as process would have, if such process were issued from a court and served personally upon the defendants, named or unnamed, by a qualified officer of the law.

(d)The landowners or other interested persons shall make their appearance in person or by attorney on or before the time set for such hearing and file in writing any objections that they may have to such proposed project or the proposed method of financing such project.

**HISTORY:** Acts 1955, ch. 112, § 21; T.C.A., § 70-1830; T.C.A. § 69-7-130.

**69-6-131.Matters to be determined at hearing -- Appeal.**

(a)At the time and place set for such hearing, or at any subsequent date to which such hearing may be adjourned by order of court, the court shall proceed to hear proof and determine by decree:

(1) The soundness and economic feasibility of the proposed plan or project;

(2) The probable cost of the project;

(3) The benefits to be derived from the proposed project, and whether such benefits are manifestly in the best interest of the lands affected;

**(4)** Whether these benefits will be conferred generally upon all of the lands of the district, or upon only certain lands in the district, in the latter event the lands calculated to be benefited shall be described as to acreage, boundaries and ownership; and

**(5)** The recommended method of financing the cost of the project, whether by some general obligation of the district to be defrayed by revenues from the project or work, or by ad valorem tax to be levied by special act of the general assembly upon all of the lands of the district in case all of the lands are benefited generally by such project, or by special assessment against the lands benefited by the proposed improvement.

**(b)** Any landowner or other interested party aggrieved by the watershed improvement decree of the court has the same right of appeal as provided to any other litigant in the court or to any interested party in connection with any court decree affecting them as provided under the drainage laws of Tennessee, compiled in chapter 5 of this title.

**HISTORY:** Acts 1955, ch. 112, § 21; T.C.A., § 70-1831; T.C.A. § 69-7-131.

#### **69-6-132.Revenue bonds.**

If the cost of the proposed improvement is to be paid from the proceeds of revenue bonds of the district, the county legislative body may authorize the issuance of the necessary revenue bonds, in accordance with title 9, chapter 21, with respect to a local government.

**HISTORY:** Acts 1955, ch. 112, § 22; T.C.A., § 70-1832; Acts 1988, ch. 750, § 70; T.C.A. § 69-7-132.

#### **69-6-133.Appointment of commissioners.**

If the cost of the proposed improvement is to be raised by special assessment upon the lands to be benefited by the project, the court shall appoint three (3) commissioners who shall be disinterested financially in such proposed project.

**HISTORY:** Acts 1955, ch. 112, § 23; T.C.A., § 70-1833; T.C.A. § 69-7-133

#### **69-6-134.Report of benefits and costs.**

**(a)** The commissioners shall study the plans for the proposed improvement and the cost of the same. They shall then go upon the lands within the district for the purpose of determining to what extent and in what proportion the lands affected by such project will be benefited accordingly. They will apportion the cost of the proposed project, including the cost of maintenance, for a period of not more than twenty (20) years among the lands benefited; except that maintenance costs shall be provided for throughout the period during which the credit of the district is pledged, or special assessments or taxes levied for the use and benefit of any project.

**(b)** The commissioners shall report their actions in writing to the court, and in the report they shall set forth in detail their conclusions and findings, listing the lands benefited by the names of their owners, acreage and description and the lump sum assessment for benefits against each tract of land, if such assessment were paid in cash, and also, the amount of the annual assessments required upon each tract, if the cost is to be defrayed by bonds or other obligations of the district for the period of years over which such bonds or obligations are payable. The proposed assessment shall also include interest and other costs in connection with such bonds or obligations.

**HISTORY:** Acts 1955, ch. 112, § 23; T.C.A., § 70-1834; T.C.A. § 69-7-134.

**69-6-135. Hearing on report -- Notice -- Objections -- Decree -- Restriction on assessments.**

(a) When the commissioners have filed their written report, including the proposed assessment for benefits upon the lands benefited by the project, the court shall set a date for the hearing of the matter upon the report of the commissioners and direct that publication be made for all landowners and other persons interested in the lands to be affected by the proposed improvement in some newspaper of general circulation in each county in which are located lands affected by the proposed improvement. This publication shall be once a week for three (3) consecutive weeks, the last publication to be at least ten (10) days before the date set for the hearing. The publication shall notify all known landowners and other interested persons generally without being named of the hearing of the report of the commissioners apportioning the cost of the proposed plan, the improvement or project between the lands benefited in proportion to such benefits and setting out the proposed assessments against each tract of land benefited. In addition, the publication should notify such landowners or other interested parties of the time and place of such hearing, when and where they should appear, and show cause why the report of the commissioners should not be approved, and why the assessment should not be levied upon the lands to create the funds necessary for such proposed improvement.

(b) The landowners or other interested persons shall make their appearance and file their objections, if any, in writing on or before the time fixed for such hearing.

(c) At the time and place fixed for such hearing, the court shall proceed to consider the report of the commissioners and any exceptions or objections filed, as well as any proof offered in support of the exceptions or objections or in support of the commissioners' report. Whereupon, the court will sustain or overrule each of the exceptions or modify or amend the proposed assessment to which such exception or objection was filed. The court will then either reject or accept the report of the commissioners and ratify it with or without modifications or amendments in regard to the proposed assessments.

(d) If the court shall accept and ratify the report of the commissioners, either with or without modifications, the court will then by decree proceed to make or levy an assessment for the amount determined upon the respective tracts of land to be benefited by the project in proportion to such benefits; provided, that in watershed districts of a size of two hundred fifty thousand (250,000) acres, or larger, no tract of land shall be assessed for such benefits in an amount in excess of twenty-five percent (25%) of its assessed valuation for county taxation.

**HISTORY:** Acts 1955, ch. 112, § 23; 1959, ch. 53, § 1; T.C.A., § 70-1835; T.C.A. § 69-7-135.

**69-6-136. Appeal.**

Any person aggrieved may appeal from the decision or the decree of the court in making or levying the assessment or refusing to make or levy the assessment. The appeal is made in the same manner as the appeal of any other case in such court or as provided in chapter 5 of this title.

**HISTORY:** Acts 1955, ch. 112, § 23; T.C.A., § 70-1836; T.C.A. § 69-7-136.

**69-6-137. Enforcement of assessments -- Issuance of bonds.**

(a) The assessment made or levied for watershed improvement shall be a lien on the respective tracts of land upon which it is assessed, and this lien shall be enforced in the same manner as

provided for the enforcement of the lien for drainage assessment under chapter 5 of this title, which is incorporated in this section by reference. In no event shall watershed improvement assessment be deemed to be the personal obligations of the landowners.

**(b)** The court may authorize the issuance of bonds by the district to cover the cost of the project, for the payment of which bonds the assessments upon the lands benefited by the project may be pledged. The terms and conditions of the bonds, as well as their schedule of payment, shall be fixed by the court, but in no event shall the date of the maturity of the final payment under such bond schedule exceed thirty (30) years after the date of issue.

**HISTORY:** Acts 1955, ch. 112, § 23; 1969, ch. 258, § 1; T.C.A., § 70-1837; T.C.A. § 69-7-137

**69-6-138. Assessment book -- Certification to trustees.**

As soon as the assessment has been made, the court will fix the date or dates upon which such assessment and/or the annual installments of the same shall be payable. Whereupon, the county clerk shall make out an assessment list or book for the trustee of each county in which are located lands so assessed for benefits, giving alphabetically the name of the owner, the boundaries of each tract, the number of acres in each tract and the amount assessed against each tract, including the annual installments in which such assessments are payable, if the full assessments be not paid in cash. Such book or list shall be in substantially the form used for county tax books. When such lists or books have been completed, the clerk shall certify the same to the trustee or trustees of the counties in which the lands so assessed are located.

**HISTORY:** Acts 1955, ch. 112, § 24; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 70-1838; T.C.A. § 69-7-138.

**69-6-139. Collection of assessments -- Quarterly settlement -- Commission.**

**(a)** The trustee of each county in which lands so assessed are located shall collect such assessments upon the dates designated by the court and shall make settlement quarterly with the treasurer of the district for such collections.

**(b)** The trustee shall be entitled to a commission of one percent (1%) of such collections for such trustee's services.

**HISTORY:** Acts 1955, ch. 112, § 25; T.C.A., § 70-1839; T.C.A. § 69-7-139.

**69-6-140. Delinquent assessments.**

In the event assessments become delinquent, §§ 69-5-817 -- 69-5-829 shall be applied, and the same are incorporated in this section by reference as fully and completely as if copied.

**HISTORY:** Acts 1955, ch. 112, § 26; T.C.A., § 70-1840; T.C.A. § 69-7-140.

**69-6-141. Treasurer's bond.**

In the event of special assessments, the treasurer of the district shall be bonded at the expense of the district by a reputable and responsible corporate surety in an amount determined by the court, or as otherwise provided by law.

**HISTORY:** Acts 1955, ch. 112, § 26; T.C.A., § 70-1841; T.C.A. § 69-7-141

**69-6-142. Audits.**

**(a)** The board of directors of each district shall cause an annual audit to be made of the books and records of its district. The comptroller of the treasury, through the department of audit,

shall be responsible for determining that such audits are made in accordance with generally accepted governmental auditing standards and that such audits meet the minimum standards prescribed by the comptroller of the treasury.

**(b)** These audits shall be made by certified public accountants or by the department. In the event the governing body of the district shall fail or refuse to have the audit made, then the comptroller of the treasury may appoint a certified public accountant, or direct the department to make the audit, the cost of such audit to be paid by the district.

**(c)** The comptroller of the treasury is authorized to direct the department to modify the requirements for an audit as set out in this section for any districts whose activity, in the comptroller's judgment, is not sufficient to justify the expenses of a complete audit. The comptroller of the treasury is authorized to direct the department to make an audit or financial review of the books and records of districts.

**(d)** Each district shall prepare and submit an annual report of its business affairs and transactions to the state soil conservation committee and the comptroller of the treasury.

**HISTORY:** Acts 1955, ch. 112, § 27; T.C.A., § 70-1842; Acts 1984, ch. 794, § 14; 1993, ch. 271, § 1; T.C.A. § 69-7-142; Acts 2012, ch. 573, § 1.

#### **69-6-143. Letting of contracts.**

**(a)** A written contract shall be entered into between the board of directors of the district and the successful bidder, after due advertisement for bids as is required in case of contracts for public improvements, in connection with each work plan or project of the district, the cost of which other than rights-of-way and maintenance is to be borne by the district or landowners in the district.

**(b)** If the project and method of financing have been approved by the court, the contract shall be submitted to and approved by the court prior to the commencement of the plan, improvement, or project.

**HISTORY:** Acts 1955, ch. 112, § 28; T.C.A., § 70-1843; T.C.A. § 69-7-143.

#### **69-6-144. Ad valorem tax by general assembly.**

In addition to the methods of financing authorized in this chapter, administrative costs of the district as well as the cost of any general plan, improvement, project, program or work benefiting all lands in the district generally may be financed by an ad valorem tax levied by special or private acts of the general assembly upon all the lands in the district.

**HISTORY:** Acts 1955, ch. 112, § 29; T.C.A., § 70-1844; T.C.A. § 69-7-144.

#### **69-6-145. Collection of ad valorem taxes -- Commission -- Delinquent taxes.**

**(a)** Ad valorem taxes would be collected by the trustee of the county in which the lands are located, in the same manner and at the same time in which other county taxes upon such lands within the watershed district are collected.

**(b)** The trustee is entitled to a commission of one percent (1%) upon the ad valorem taxes so collected as a commission for such trustee's services. The trustee shall account quarterly to the treasurer of the district for the ad valorem taxes so collected.

(c) Ad valorem taxes are a lien upon the lands embraced in a watershed district as are county taxes and shall be collected by suit in the same manner as other county taxes, if the same are not paid to the trustee in due course. They shall become delinquent at the same time and in the same manner as county taxes.

**HISTORY:** Acts 1955, ch. 112, § 29; T.C.A., § 70-1845; T.C.A. § 69-7-145.

**69-6-146. Right of entry on private property.**

The board of directors, its representatives and employees, including engineers and contractors and their employees, have the right and authority to enter upon private lands within or without the boundaries of the district for the purpose of conducting tests, surveys and other work incidental to the preparation of plans, maps, profiles and reports in connection with any work or proposed work of the district, and the district shall be liable for any damages caused by such entry.

**HISTORY:** Acts 1955, ch. 112, § 30; T.C.A., § 70-1846; T.C.A. § 69-7-146.

**69-6-147. Assessments for maintenance.**

(a) It is the duty of the board of directors to properly maintain any project constructed and operated within the district.

(b)(1) The board, or landowners owning five percent (5%) of the acreage affected by any project, may petition the court in which such plan or project was approved to levy additional assessments for the proper maintenance or operation, or both, of such project or improvement, as may appear to the court to be necessary, the apportionment of such maintenance expense to be upon the tracts benefited by the original project in the ratio or proportion established in the original assessment roll.

(2) In the case of any improvement or project benefiting all of the lands in the district generally, the court may order the board to have the proper maintenance or repair work, or both, accomplished, and order the same to be paid from the funds of the district in the hands of the treasurer that are not obligated for any other purpose.

(c) A special assessment for maintenance is a lien upon the respective tracts of land and is collected in the same manner as assessments for benefits as provided in this chapter.

**HISTORY:** Acts 1955, ch. 112, § 31; T.C.A., § 70-1847; T.C.A. § 69-7-147.

**69-6-148. Dissolution of district.**

(a) A watershed district may be dissolved in the same way and manner as provided for general welfare and nonprofit corporations as set out in title 48, chapters 51-68. The watershed district shall file a true and correct copy of the dissolution with the state soil conservation committee.

(b) In addition, the watershed district shall be dissolved by operation of law at the expiration of ten (10) years in the event that none of the corporate powers bestowed upon such corporations by this chapter are used. In the event a watershed district is dissolved under this subsection (b), the chair of the state soil conservation committee shall file a notice of dissolution with the secretary of state and upon such filing the watershed district shall no longer be deemed to exist. The chair of the state soil conservation committee shall file a true

and correct copy of the notice of dissolution with the register of deeds of the county or counties in which the watershed district is located.

**HISTORY:** Acts 1955, ch. 112, § 32; modified; T.C.A., § 70-1848; T.C.A. § 69-7-148; Acts 2012, ch. 573, §§ 2, 3.

**69-6-149. Provisions supplemental.**

This chapter is deemed to be supplemental to existing laws relating to drainage districts, flood control, irrigation, soil conservation, and related matters.

**HISTORY:** Acts 1955, ch. 112, § 33; T.C.A., § 70-1849; T.C.A. § 69-7-149