CHAPTER 11

Watershed Conservation Districts

**SECTION 48‑11‑10.** Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

(1) “Watershed conservation district” means a governmental subdivision of this State and a public body corporate and politic organized and functioning in accordance with this chapter for the purposes and with the powers and duties provided in this chapter and subject to its restrictions.

(2) “Director” means one of the members of the governing body of a watershed conservation district selected in accordance with this chapter. “Board of directors” means the governing body of a watershed conservation district.

(3) “Soil and water conservation district” means a governmental subdivision of this State and a public body corporate and politic organized in accordance with Chapter 9 of Title 48 for the purposes, with the powers, and subject to the restrictions in the chapter. It applies to all districts organized under law including districts originally designated as “soil conservation districts”.

(4) “Commissioner” means one of the members of the governing body of each soil and water conservation district in which part of a watershed conservation district is situated. “Board of commissioners” means the governing body of the soil and water conservation district in which a watershed conservation district is situated or, if the watershed conservation district is situated in more than one soil and water conservation district, the joint governing bodies of the districts.

(5) “Petition” means a petition filed under Section 48‑11‑40 for the creation of a watershed conservation district.

(6) “Nominating petition” means a petition filed under Section 48‑11‑100(B) or (C) to nominate candidates for the office of director of a watershed conservation district.

(7) “State” means South Carolina.

(8) “Owner of land” includes a person, firm, or corporation holding legal or equitable title to lands or interest in lands lying within a watershed conservation district organized under this chapter.

(9) “Qualified elector” includes a person qualified to vote in elections by the people under the Constitution of this State.

(10) “Due notice” means notice published at least twice, with an interval of at least one week between the two publication dates, in a publication of general circulation within the appropriate area or, if no publication of general circulation is available, notice posted at a reasonable number of conspicuous places within the appropriate area. When possible, notice must be posted at public places where it is customary to post notices concerning county or municipal affairs generally.

(11) “Watershed” means the drainage area contributing stormwater runoff to a single point.

(12) “Department” means the Department of Natural Resources.

(13) “Division” means Land Resources and Conservation Districts Division.

(14) “Board” means the board of the Department of Natural Resources.

HISTORY: 1962 Code Section 63‑171; 1967 (55) 1158; 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1198.

**SECTION 48‑11‑15.** Department of Natural Resources to assist in organization and function of watershed conservation districts.

The Department of Natural Resources shall assist boards of commissioners of soil and water conservation districts and boards of directors of watershed conservation districts with the organization and function of watershed conservation districts. For the purpose of this chapter, the responsibility of the department is limited to this activity. The construction, operation, and maintenance of watershed works of improvement are the sole responsibility of watershed conservation districts and others as specified in documents for the works of improvement.

HISTORY: 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1199.

CROSS REFERENCES

Department of Natural Resources, see Sections 48‑4‑10 et seq.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑20.** Establishment of watershed conservation districts authorized; purpose; effect on existing procedures.

Watershed conservation districts may be established as provided in this chapter within one or more soil and water conservation districts to develop and execute plans and programs relating to a phase of the control or prevention of soil erosion or flooding; the conservation, protection, improvement, development, or utilization of soil and water resources; stormwater management; or the disposal of water. This authority applies, but is not limited to, the planning and carrying out of works of improvement for the foregoing purposes which may be considered by the United States Secretary of Agriculture under the Watershed and Flood Prevention Act, 68 Stat. 666, as amended, and does not affect the existing procedures followed by local interests in the planning and construction of water resources development projects of other agencies. However, this chapter may be used when, in the opinion of those agencies, the use is advisable or expedient.

HISTORY: 1962 Code Section 63‑172; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Federal Aspects

Watershed and Flood Prevention Act, see 16 U.S.C.A. Sections 1001 et seq.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑30.** Area of district.

The area embraced in a watershed conservation district must be contiguous, must lie within a well‑defined watershed, and must be situated within one or more soil and water conservation districts. The area may not include lands located within the boundary of an incorporated municipality, unless approved by its governing body, or another watershed conservation district. The boundary of each watershed conservation district in existence on the effective date of this chapter, as amended, is not affected unless otherwise provided in this chapter.

HISTORY: 1962 Code Section 63‑173; 1967 (55) 1158; 1992 Act No. 408, Section 1.

CROSS REFERENCES

Requirement that petition to consolidate watershed conservation districts into single district meet provisions of this section, see Section 48‑11‑185.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑40.** Petition for formation of district.

When twenty‑five or more qualified electors residing within a proposed watershed conservation district, or, if less than fifty qualified electors are involved, a majority of the qualified electors, desire to form a watershed conservation district, they shall file a petition with the board of commissioners of the soil and water conservation district in which the proposed watershed conservation district is situated, asking that a watershed conservation district be organized to function in the area described in the petition. The petition must:

(1) set forth the proposed name of the watershed conservation district;

(2) state that there is need in the interest of the public health, safety, and welfare for a watershed conservation district to function in the territory described in the petition;

(3) include a map of the proposed watershed conservation district;

(4) state the approximate number of acres in the proposed watershed conservation district;

(5) state the authority for taxes to be levied each fiscal year for the purposes of the watershed conservation district;

(6) include a request that the area described in the petition be established as a watershed conservation district.

HISTORY: 1962 Code Section 63‑174; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑50.** Petition and procedure where proposed district is situated in more than one soil and water conservation district.

If the proposed watershed conservation district is situated in more than one soil and water conservation district, a copy of the petition must be presented to the board of commissioners of each soil and water conservation district in which part of the proposed watershed conservation district is situated. The commissioners of all the soil and water conservation districts shall act as a joint board of commissioners with respect to all matters concerning the watershed conservation district, including its creation. The watershed conservation district must be organized in like manner and have the same powers and duties as a watershed conservation district situated entirely in one soil and water conservation district.

HISTORY: 1962 Code Section 63‑175; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑60.** Hearing and determination of commissioners of soil and water conservation district on petition.

(A) Within thirty days after the petition has been filed with the board of commissioners of the soil and water conservation district, the board shall cause due notice to be given of a public hearing on the desirability and necessity in the interest of the public health, safety, and welfare of the creation of the watershed conservation district and the administrative practicability and feasibility of the operation of the watershed conservation district. All interested parties may attend the hearing and be heard. If it appears at the hearing that other lands must be included in the petition or that land included in the petition must be excluded, the board of commissioners may permit the inclusion or exclusion if the land area involved still meets the requirements of Section 48‑11‑30.

(B) If it appears upon the hearing that it may be desirable to include within the proposed watershed conservation district territory outside of the area within which due notice of the hearing has been given, the hearing must be adjourned and, within thirty days, due notice of a further hearing must be given throughout the entire area considered for inclusion in the proposed watershed conservation district, and the further hearing must be held. Within sixty days after final hearing the board of commissioners shall determine whether the proposed watershed conservation district is needed. If the commissioners determine, upon the facts presented at the hearing and upon other available information, that there is need in the interest of the public health, safety, and welfare for a watershed conservation district to function in the territory considered at the hearing and that the operation of the watershed conservation district is administratively practicable and feasible, they shall record in their minutes the determination and shall submit the determination in writing to the clerks of court of the applicable counties. The determination shall define the boundaries of the proposed watershed conservation district.

(C) If the board of commissioners determine after the hearing that there is no need for a watershed conservation district to function in the territory considered at the hearing, or that the operation of the watershed conservation district is not administratively practicable or feasible, the board shall record in its minutes the determination and shall deny the petition. A new petition must not be filed until two years after the date of determination of denial of the previous petition.

HISTORY: 1962 Code Section 63‑176; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123, 138.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 130, 133, 136, 140, 173.

**SECTION 48‑11‑70.** Referendum to be held on establishment of district.

After the board of commissioners of the soil and water conservation district has recorded a determination that there is need in the interest of the public health, safety, and welfare for a watershed conservation district to function in the territory considered at the hearing and that the operation of the watershed conservation district is administratively practicable and feasible and has defined its boundaries, the board shall determine whether the majority of the qualified electors residing in the proposed watershed conservation district desire that the district be created. To make this decision a referendum to approve or disapprove the creation of the watershed conservation district must be held by the county election commission in the next scheduled countywide election in the counties in which the proposed district is located. Only qualified electors residing in the watershed are eligible to vote in the referendum. Applicable rules of the election apply to the referendum. Due notice of the referendum must be given by the board of commissioners. The notice must describe the boundaries of the proposed watershed district as determined by the board of commissioners of the soil and water conservation district, as provided in Section 48‑11‑60(B) and must state the authority for taxes to be levied each fiscal year for the purposes of the watershed conservation district. If the majority of the qualified electors voting in the referendum approve the creation of the watershed conservation district, the district is established and must be organized pursuant to this chapter.

HISTORY: 1962 Code Section 63‑177; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑90.** Tabulation, certification, and recordation of results of referendum; resulting district to constitute governmental subdivision and public body corporate and politic.

The county election commission shall tabulate the results of the referendum at the close of the polls and certify the results to the clerks of court of the counties in which part of the district is situated. Upon proper recordation of the referendum results by the clerks of court the watershed conservation district constitutes a governmental subdivision of this State and a public body corporate and politic. After recording the results the clerks of court shall notify the board of commissioners in writing that the watershed conservation district has been created, and the soil and water conservation district board shall submit to the department a copy of the notification.

HISTORY: 1962 Code Section 63‑179; 1967 (55) 1158; 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1200.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑100.** Governing body of district.

(A) The governing body of each watershed conservation district consists of five directors selected as provided in this section. No person may be a director who is not a qualified elector residing in the district.

(B) The first directors of the watershed conservation district after the district has been created must be elected in a nonpartisan election conducted by the county election commission when county officers are elected in the general election. To be placed on the ballot each candidate shall submit to the county election commission a declaration of candidacy not later than noon, September 1, or if this date falls on a Saturday, Sunday, or a legal holiday, not later than noon the following Monday. If a watershed district lies in more than one county the required declaration of candidacy must be filed with the State Election Commission. This election must be conducted pursuant to Title 7, mutatis mutandis, except as otherwise provided in this section. The five elected directors, under the general supervision of the board of commissioners of the soil and water conservation district, are the governing body of the watershed conservation district.

(C)(1) Of the directors first elected, the three receiving the largest number of votes serve for terms of four years, and the two receiving the next largest number of votes serve for terms of two years.

(2) The term of office of each of their successors is four years, except in lieu of election successors may be appointed in watershed conservation districts if:

(a) one of the sponsors, other than the watershed conservation district board of directors, of each phase of each work of improvement conducted by the district, including operation and maintenance of the work of improvement, has the authority to levy an annual tax on the real property in the district for that phase of the work of improvement;

(b) the watershed conservation district has sufficient funds, other than taxes levied by the district on real property in the district, to pay the expenses of the district.

(3) Twenty‑five or more qualified electors residing in a watershed conservation district may submit a petition to the board of commissioners of the soil and water conservation district for the procedure by which watershed conservation district directors are selected to be changed from election to appointment. The board of commissioners shall determine whether the prerequisites for appointment described in item (1) are met. To help make this decision the board shall give due notice of and hold a public hearing on the proposed change within sixty days after receiving the petition. After the public hearing the board of commissioners shall determine whether the prerequisites are met.

(4) If the board of commissioners determine that the prerequisites are met, a referendum to approve or disapprove the change in the procedure for selecting watershed conservation district directors must be held by the county election commission in the next scheduled countywide election in the counties where the watershed conservation district is located. Applicable rules of the scheduled election apply to the referendum. Due notice of the referendum must be given by the county election commission. Notice must state that, if the procedure for selecting watershed conservation district directors is changed from election to appointment, the change is effective as current terms expire and that the authority of the watershed conservation district to levy an annual tax on real property in the district ceases when the first of the current terms expires and has been filled by appointment and continues as long as directors are appointed instead of elected. Only qualified electors residing in the watershed conservation district may vote in the referendum.

(5) The county election commission shall tabulate the results of the referendum, submit the results in writing to the board of commissioners of the soil and water conservation district, and certify the results to the clerks of court of the counties in which the watershed conservation district is located. If a majority of the votes cast in the referendum favor changing the procedure for selecting watershed conservation district directors from election to appointment, the board of commissioners shall submit written notification to the county election commission, county auditors, sponsors of works of improvement of the watershed conservation district, watershed district directors, and the department that the selection procedure is changed when current terms expire and that the authority of the watershed conservation district board to levy an annual tax on real property in the district ceases, when the first of the current terms expires and has been filled by appointment and continues as long as directors are appointed instead of elected.

(6) The governing body of each county in which the watershed conservation district is located shall appoint one director each, and the board of commissioners of the soil and water conservation district shall appoint the remaining directors. To be considered for appointment by the board of commissioners of the soil and water conservation district or the county governing body, an individual shall submit to the board or body from which appointment is sought a nominating petition with the signatures of twenty‑five qualified electors residing in the watershed conservation district, or, if less than fifty qualified electors reside in the district, a majority of the qualified electors. The official number of qualified electors residing in a watershed conservation district is the number of registered electors residing in the district and registered one hundred twenty days before the date by which nominating petitions must be submitted. The board of commissioners and the county governing body shall give due notice that they will receive petitions to nominate candidates to be appointed as watershed conservation district directors. Due notice must be given at least sixty days before the date by which petitions must be submitted.

(7) The board of commissioners of the soil and water conservation district shall:

(a) maintain records on the election and appointment of directors;

(b) coordinate appointments by the county governing bodies, including written notification to the county governing bodies at least ninety days before the expiration of each term to be filled through appointment by the county governing body;

(c) submit in writing to the department the name of each elected or appointed director within thirty days of election or appointment.

(8) When each phase of a work of improvement of a watershed conservation district for which directors are appointed does not have a sponsor with authority to levy an annual tax on real property in the district for that phase of the work of improvement, or when the watershed conservation district does not have sufficient funds to pay the expenses of the district, the procedure for selecting watershed conservation district directors must be changed from appointment to election, and the board of commissioners shall notify in writing the county election commission, county auditor, sponsors of works of improvement of the watershed conservation district, watershed conservation district directors, and the department that the selection procedure is changed when current terms expire and that when current terms expire and have been filled by election, the watershed conservation district board may levy an annual tax on real property in the district as long as directors are elected instead of appointed. For a vacancy occurring before the expiration of the term of an elected director, a successor to serve for the unexpired portion of the term must be appointed by the board of commissioners.

(D) For a vacancy occurring before the expiration of the term of an appointed director, a successor to serve for the unexpired portion of the term must be appointed by the body that made the original appointment. A director may be removed from office by the board of commissioners upon notice and hearing for neglect of duty or malfeasance in office but for no other reason.

(E) For each calendar year the directors annually shall elect from among their number a chairman, secretary, and treasurer and so notify the soil and water conservation district and the department by March thirty‑first each year. The board of directors, with the approval of the board of commissioners of the soil and water conservation district, may employ officers, agents, and other employees it requires and determine their qualifications, duties, and compensation. The board of directors shall provide for the execution of surety bonds for the officers, agents, or employees entrusted with funds or property of the watershed conservation district, tort liability insurance for each director of the watershed conservation district board, for the keeping of a full and accurate record of the proceedings, resolutions, and other actions of the board, and for the making and publication of an annual audit of the accounts of receipts and disbursements of the watershed conservation district. The watershed conservation district board shall submit a copy of the audit to the county treasurer and to the board of commissioners of the soil and water conservation district. The watershed conservation district board shall submit written notification to the department within one hundred twenty days following the end of the district’s fiscal year that the audit has been made, the date of the audit, and the name of the firm that or individual who made the audit.

(F) The directors may receive no compensation for their services, but they may be reimbursed from the budget of the watershed conservation district or from another local source for expenses, including traveling expenses, necessarily incurred in the discharge of their powers and duties as approved by the board of commissioners.

HISTORY: 1962 Code Section 63‑180; 1967 (55) 1158; 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1201; 1996 Act No. 340, Section 1.

Library References

Environmental Law 123, 138.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 130, 133, 136, 140, 173.

**SECTION 48‑11‑110.** Powers of district generally.

A watershed conservation district organized under this chapter constitutes a governmental subdivision of this State, and a public body corporate and politic, exercising public powers. The district and its board of directors, to develop and execute plans and programs for the control or prevention of soil erosion or flooding, to conserve, protect, improve, develop, or utilize soil and water resources, to provide stormwater management, or to dispose of water, subject to the general supervision of the board of commissioners of the soil and water conservation district, have the following powers and duties in addition to others granted by this chapter:

(1) acquire by purchase, exchange, lease, gift, grant, bequest, devise, or through condemnation actions lands, easements, or rights‑of‑way needed to carry out an authorized purpose of the watershed conservation district, and sell, lease, or otherwise dispose of its property or interests in the property for the purposes and provisions of this chapter. The condemnation of an existing public use must be denied unless it may be shown that the specific property to be condemned is absolutely essential to the watershed conservation district, and the use to be condemned materially does not impair the existing public use;

(2) construct, reconstruct, repair, enlarge, and improve the works of improvement as necessary or convenient for the performance of the operations authorized by this chapter and shall provide operation and maintenance for works of improvement;

(3) borrow money and execute promissory notes and other evidences of debt in connection with them for payment of the costs and expenses of organizing the watershed conservation district or for carrying out an authorized purpose of the district, if promissory notes are issued, execute the mortgages on real property owned by the district or assign or pledge the revenues, including anticipated tax revenues, of the district as required by the lender as security for the repayment of the loan, and issue, negotiate, and sell its bonds, notes, and other evidences of debt as provided in Section 48‑11‑120;

(4) sue and be sued in the name of the district, have a judicially noticed seal, have perpetual succession unless terminated as provided in this chapter, and make and execute contracts and other instruments necessary or convenient to the exercise of its powers;

(5) levy an annual tax as provided in this chapter on the real property within the district for payment of the costs and expenses of organizing the watershed conservation district or for carrying out an authorized purpose, power, or duty of the district;

(6) receive services and receive and disburse funds from federal, state, local, or other governmental or private sources;

(7) employ appropriate consultants, advisors, and employees and fix and pay them compensation from funds available to the district.

HISTORY: 1962 Code Section 63‑181; 1967 (55) 1158; 1987 Act No. 173, Section 23; 1992 Act No. 408, Section 1.

CROSS REFERENCES

Procedures for the condemnation of property, see the Eminent Domain Procedure Act, Sections 28‑2‑10 et seq.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑120.** Issuance of bonds, notes, and other evidences of debt; tax levy for payment.

(A) Bonds, notes, and other evidences of debt authorized by Section 48‑11‑110(3) must not be issued until proposed by order or resolution of the directors of the watershed conservation district specifying the purpose for which the funds are to be used and the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest they are to bear. A copy of the order or resolution must be certified to the board of commissioners of the soil and water conservation district.

(B) The board of commissioners shall hold a hearing on a proposal for bonds or other long term indebtedness required by law to be voted upon at an election after having given due notice of the hearing. If it appears that the proposal is within the scope and purpose of this chapter and meets all other requirements of the law, the proposal must be submitted to the qualified electors residing in the watershed conservation district by a referendum held in the next scheduled countywide election in the counties.

(C) Applicable rules of the election apply to the referendum. Due notice of the referendum must be given by the county election commission.

(D) If two‑thirds of the votes cast in the referendum favor the proposal, the directors may issue the bonds.

(E) The type of indebtedness incurred or bonds issued is that adopted by the board of directors of the watershed conservation district.

(F) The board of directors, if necessary for the payment of interest or indebtedness incurred or bonds issued by the district or to amortize indebtedness or bonds, shall levy an annual tax on real property within the watershed conservation district. For the purposes of the tax levy the assessed valuation of the real property is the same assessed valuation used for the general county levy. The tax must be levied and collected in the same manner provided for the levy and collection of other taxes authorized by this chapter.

HISTORY: 1962 Code Section 63‑182; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑130.** Preparation and approval of budgets.

(A) At least once every five years the board of directors of each watershed conservation district shall establish an operating budget for the purposes of the district. The budget must be established only after the board provides due notice of and conducts a public hearing at which all residents of the watershed conservation district and owners of land lying in the district have an opportunity to be heard concerning the proposed budget. After the hearing the operating budget must be set by the board of directors after it is approved by the board of commissioners of the soil and water conservation district. The annual itemized budget prepared by the watershed conservation district board according to subsection (B) may not exceed the most recently established operating budget.

(B) Within the first quarter of each calendar year the board of directors of the watershed conservation district shall prepare an itemized budget of the funds needed during the upcoming fiscal year for costs and expenses of organizing the district, for administration of the district, and for carrying out an authorized purpose, power, or duty of the district, including construction, operation, and maintenance of works of improvement. The budget must be approved by the board of commissioners of the soil and water conservation district. A surplus or deficit in a fiscal year must be carried forward and applied to the next fiscal year’s account and calculated into the budget for that year.

HISTORY: 1962 Code Section 63‑183; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑140.** Preparation of list of landowners; computation of tax due from each landowner.

(A) The board of directors of a watershed conservation district for which directors are elected, at its discretion, may levy a tax each fiscal year on real property in the watershed conservation district to meet all or part of the budget prepared according to Section 48‑11‑130(B) for the purposes of the district. After approval of the budget by the board of commissioners of the soil and water conservation district, if the board of directors desires to levy a tax, the board of commissioners shall submit a copy of the budget in writing to the county auditors of the corresponding counties, and the county auditors shall levy a tax on all real property in the watershed conservation district at the millage rate sufficient to meet the budget, or a portion of it, as specified by the board of directors. The board of directors of the watershed conservation district shall provide the boundaries of the district to the county auditor.

(B) When the property tax rolls are delivered to the county treasurer by the county auditor as required by law, the county treasurer shall compute the tax due the watershed conservation district from each landowner in accordance with the millage rate set by the county auditor pursuant to subsection (A) and the assessed valuation of the real property shown on the tax roll. The computation must be made on the regular tax bills.

HISTORY: 1962 Code Section 63‑184; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑150.** Collection of taxes.

The county treasurer shall collect the taxes due the watershed conservation district at the same time and in the same manner as other taxes of the county are collected. The taxes are subject to the same provisions of law for due and delinquency dates, discounts, penalties, and interest and tax liens applicable to county taxes.

HISTORY: 1962 Code Section 63‑185; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑160.** Transfer of tax funds collected to district; expenditures.

Tax funds collected must be transferred to and held by the treasurer of the watershed conservation district for the purposes of the district. Expenditures of the funds must be made by the board of directors of the watershed conservation district.

HISTORY: 1962 Code Section 63‑186; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑170.** Annexation of lands to district.

(A) One or more owners of land may petition the board of commissioners of the soil and water conservation district to have their lands added to a watershed conservation district. The petition must include a map of the boundaries of the land desired to be annexed, the number of acres of land involved, and other information pertinent to the proposal. When the boundary described embraces lands of others than the petitioners, the petition must state that fact and must be signed by a majority of the landowners within the territory described in the petition. If the land area does not meet the requirement of Section 48‑11‑30, the board of commissioners of the soil and water conservation district shall deny the petition.

(B) If the land described in the petition meets the requirement of Section 48‑11‑30, within sixty days after the petition is filed, the commissioners shall cause due notice to be given of and hold a hearing on the petition. Interested parties may attend the hearing and be heard. After the hearing the commissioners shall determine whether the lands described in the petition or portion of them must be included in the watershed conservation district. If the commissioners determine that the land must be added, they shall certify this fact to the county auditors of the counties involved for recording.

HISTORY: 1962 Code Section 63‑187; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑180.** Detachment of lands from district.

The owner of lands which have not and cannot be benefited by their inclusion in the watershed conservation district may petition the commissioners of the soil and water conservation district to have the lands detached. The petition must describe the lands and state the reasons why they should be detached. A hearing must be held by the commissioners within thirty days after the petition is filed. Due notice of the hearing must be given by the commissioners. If it is determined by the commissioners that the lands must be detached, the determination must be certified to the county auditors of the counties involved for recording.

HISTORY: 1962 Code Section 63‑188; 1967 (55) 1158; 1992 Act No. 408, Section 1.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑185.** Consolidation of watershed conservation districts into single district.

(A) The boards of directors of two or more watershed conservation districts may petition the board of commissioners of the soil and water conservation district for the watershed conservation districts to be consolidated into a single district but only if the new single watershed conservation district meets the provisions of Section 48‑11‑30. The petition must be signed by a majority of the board of directors of each of the affected watershed conservation districts. The board of commissioners shall deny the petition if the proposed watershed conservation district does not meet the provisions of Section 48‑11‑30.

(B) Within sixty days after receiving a petition that meets these requirements, the board of commissioners of the soil and water conservation district shall give due notice of and hold a public hearing on the proposed consolidation. After the hearing the board of commissioners shall determine whether the operation of the newly proposed single watershed conservation district is administratively practicable and feasible.

(C) If the board of commissioners determines that the operation of the new single watershed conservation district is administratively practicable and feasible, a referendum to approve or disapprove the consolidation of the watershed conservation districts must be held by the county election commission in the next scheduled countywide election in the counties in which the watershed is located. Applicable rules of the scheduled election apply to the referendum. Due notice of the referendum must be given by the county election commission. The notice must name the proposed watershed conservation district and describe its boundaries and state the authority for taxes to be levied each year for the purposes of the watershed conservation district. Only qualified electors residing in the proposed watershed conservation district may vote in the referendum.

(D) The county election commission shall tabulate the results of the referendum at the close of the polls, submit a written report of the results to the board of commissioners of the soil and water conservation district, and certify the results of the referendum to the clerks of court of the counties in which the district is situated. If a majority of the votes cast in the referendum are in favor of consolidation of the watershed conservation districts into the single district, upon proper recordation of the referendum results by the clerks of court of the counties, the watershed conservation district constitutes a governmental subdivision of this State and a public body corporate and politic and must be organized and shall function fully in accordance with this chapter. After recording the results the clerks of court shall notify the board of commissioners of the soil and water conservation district in writing that the watershed conservation district has been established. The board of commissioners shall submit to the department a copy of the notification from the clerks of court.

HISTORY: 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1202.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑190.** Discontinuance of district.

(A) Any time after five years after the organization of a watershed conservation district twenty‑five or more qualified electors residing in the district, or if less than fifty qualified electors are involved a majority of them, may file a petition with the board of commissioners of the soil and water conservation district asking that the existence of the watershed conservation district be discontinued. The petition must state the reasons for discontinuance and that all obligations of the watershed conservation district have been met. After giving due notice the commissioners shall conduct a hearing on the petition to determine whether the reasons given for discontinuance are valid and that all obligations have been met. If it is determined that all obligations have not been met, the petition for discontinuance must be denied. If the watershed conservation district has begun or completed implementation of a work of improvement that requires or will require operation or maintenance, the board of commissioners shall determine that all obligations have not been met and deny the petition.

(B) If it is determined that the reasons given for discontinuance are valid and all obligations have been met, the board of commissioners shall notify the county election commission who, after giving due notice, shall hold a referendum on the discontinuance of the watershed conservation district in the next countywide election in the county. Due notice of the referendum must contain a description of the watershed conservation district proposed to be discontinued. Only qualified electors of the watershed conservation district may vote in the election. The county election commission shall tabulate the results of the referendum at the close of the polls, deliver a written report of the results to the board of commissioners of the soil and water conservation district, and certify the results to the clerks of court and auditors of the counties involved.

(C) After recording the results of the referendum, the clerks of court shall notify the board of commissioners of the soil and water conservation district and the board of directors of the watershed conservation district in writing that the watershed conservation district has been discontinued, and the directors immediately shall terminate the affairs of the watershed conservation district. The board of commissioners shall submit to the department a copy of the notification from the clerks of court.

HISTORY: 1962 Code Section 63‑189; 1967 (55) 1158; 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1203.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑200.** Effect of discontinuance of soil and water conservation district.

If a soil and water conservation district in which part of a watershed conservation district is situated is discontinued, all supervisory authority over the affairs of the watershed conservation district which previously was exercised by the board of commissioners of the soil and water conservation district must be exercised by the governing bodies of the counties involved.

HISTORY: 1962 Code Section 63‑190; 1967 (55) 1158; 1992 Act No. 408, Section 1.

CROSS REFERENCES

Tax credits for construction and installation or restoration of water impoundments and water control structures, see Section 12‑6‑3370.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑11‑210.** Revision of organization and function of watershed conservation districts to comply with chapter; reorganization of certain districts.

(A) The organization and function of each of the following watershed conservation districts which have implemented works of improvement must be revised to comply with this chapter. Each watershed conservation district retains the authority to levy the millage rate for the district, established previously by the General Assembly or through the local creation or administration of the watershed conservation district, at which taxes may be levied each fiscal year on the real property in the district, until the millage rate is changed as provided in this chapter or increased by action of county council. This chapter applies to those districts notwithstanding contrary provisions in acts which may have created the districts. The districts and related acts, where created by separate acts, include:

(1) Beaverdam Creek, Edgefield County, Act 1407 of 1974;

(2) Beaverdam Creek, Oconee County, Act 1178 of 1962;

(3) Beaverdam‑Warriors Creek, Laurens County, Act 599 of 1961;

(4) Big Creek, Anderson County;

(5) Broadmouth Creek, Anderson County;

(6) Brown’s Creek, Union County;

(7) Brushy Creek, Anderson and Pickens Counties;

(8) Buck Creek, Horry County, Act 579 of 1961;

(9) Carters Branch‑Muddy Creek, Marlboro County, Act 1355 of 1966;

(10) Crabtree Swamp, Horry County, Act 579 of 1961;

(11) Duncan Creek, Laurens County, Act 599 of 1961;

(12) Fishing Creek, York County, Act 1219 of 1958;

(13) Gapway Swamp, Horry County, Act 579 of 1961;

(14) George’s Creek, Pickens County, Act 633 of 1963;

(15) Hill’s Creek, Chesterfield County, Act 513 of 1961;

(16) Hollow Creek, Lexington and Saluda Counties, Act 1335 of 1966;

(17) Horse Range Swamp, Orangeburg County, Act 816 of 1967;

(18) Little Lynches Creek, Kershaw and Lancaster Counties, Act 1316 of 1966 and Act 583 of 1963;

(19) Little Walnut‑Tom and Kate, Dorchester County, Act 584 of 1965;

(20) Lynches Lake‑Camp Branch, Florence County, Act 1007 of 1960;

(21) Maple Swamp, Dillon County;

(22) Oolenoy River, Pickens County, Act 631 of 1961;

(23) Rabon Creek, Laurens and Greenville Counties;

(24) St. George‑Gum Branch, Dorchester County;

(25) Salem Community, Florence County;

(26) Simpson Creek, Horry County, Act 579 of 1961;

(27) Rocky Creek, Chester and Fairfield Counties;

(28) South Tyger River, Greenville County, Act 544 of 1963;

(29) Thicketty Creek, Cherokee and Spartanburg Counties;

(30) Three and Twenty Creek, Anderson and Pickens Counties;

(31) Tinkers Creek, Chester and York Counties;

(32) Todd Swamp, Horry County, Act 579 of 1961;

(33) Wateree Creek, Fairfield County, Act 1077 of 1958;

(34) Wilson Creek, Anderson and Abbeville Counties;

(35) Willow Swamp, Colleton and Bamberg Counties, Act 1032 of 1962.

(B) The existing Bear Creek Watershed Conservation District, Camp Creek Watershed Conservation District, Cane Creek Watershed Conservation District, Gills Creek Watershed Conservation District, and Hannah’s Creek Watershed Conservation District in Lancaster County, created pursuant to Act 583 of 1963, are combined into a single watershed conservation district named Cane Creek Watershed Conservation District which encompasses the combined area of the five existing watershed conservation districts. The organization and function of the new Cane Creek Watershed Conservation District must be revised to comply with this chapter. The district retains the authority to levy the millage rate authorized in Act 583 of 1963 until the millage rate is changed as provided in this chapter or increased by action of county council. This chapter applies to this district notwithstanding contrary provisions in Act 583 of 1963.

(C) The existing Jackson Creek Watershed Conservation District and Mill Creek Watershed Conservation District in Fairfield County, created pursuant to Act 596 of 1965, are combined into a single watershed conservation district named Jackson‑Mill Creek Watershed Conservation District which encompasses the combined area of the two existing watershed conservation districts. The organization and function of the new Jackson‑Mill Creek Watershed Conservation District must be revised to comply with this chapter. The district retains the authority to levy the millage rate authorized in Act 596 of 1965 until the millage rate is changed as provided in this chapter or increased by action of county council. This chapter applies to this district notwithstanding contrary provisions in Act 596 of 1965.

(D) The board of commissioners of each of the soil and water conservation districts in which a part or all of each of the watershed conservation districts in subsections (A), (B), and (C) is located shall initiate action with the board of directors of the watershed conservation district and the county government to carry out this revision in the organization and function of the watershed conservation district. The department shall assist each of the boards of commissioners of the affected soil and water conservation districts with this responsibility. The department shall initiate this assistance by providing written directions and guidance to each of the affected soil and water conservation districts within ninety days of the effective date of this chapter, as amended. The department may adopt policy and has broad authority to carry out this section.

(E) For purposes of this chapter, including the conduct of elections, the Digital Hydrologic Map prepared by the Service Center Agencies of the United States Department of Agriculture of the Fishing Creek Watershed District in York County represents and is declared to be the boundaries of the district.

HISTORY: 1962 Code Section 63‑191; 1967 (55) 1158; 1992 Act No. 408, Section 1; 1993 Act No. 181, Section 1204; 1995 Act No. 34, Section 1; 2012 Act No. 155, Section 1, eff May 14, 2012.

Effect of Amendment

The 2012 amendment added subsection (E).

CROSS REFERENCES

Tax credits for construction and installation or restoration of water impoundments and water control structures, see Section 12‑6‑3370.

Library References

Environmental Law 123.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.