

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

552B0087

SENATE LOCAL GOVERNMENT
COMMITTEE ENGROSSED NO. **SB78** -
1/27/98

Introduced by: Senator Aker and Representatives Napoli and Madden

1 FOR AN ACT ENTITLED, An Act to revise the powers and organizational structure of
2 drainage basin utility districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46A-10B-3 be amended to read as follows:

5 46A-10B-3. No drainage basin utility district may be established unless each county and each
6 municipality located wholly or partially within the proposed district has executed a joint powers
7 agreement establishing the district, in accordance with the provisions of this chapter. ~~No district
8 may be established unless at least one county included wholly or partially within the proposed
9 district has a total population greater than forty-five thousand according to the most recent
10 United States census.~~

11 Section 2. That § 46A-10B-9 be amended to read as follows:

12 46A-10B-9. The joint powers agreement establishing a drainage basin utility district shall
13 designate and define the composition and powers of the governing body of the district, consistent
14 with the provisions of this chapter. ~~The governing body shall include at least two representatives
15 of each county and each municipality included wholly or partially within the district, and each~~

1 ~~representative shall have one vote on matters coming before the governing body and shall~~
2 designate the members of the initial governing body. The governing body of a district shall
3 consist of an odd number of members not to exceed nine. The members shall reside within the
4 district. The members of the initial governing body shall be divided as nearly as possible into two
5 equal groups, with the first group assigned to two-year terms and the second group assigned to
6 four-year terms. For subsequent terms, members of the governing body shall be elected at large
7 by the registered voters of the district to four-year staggered terms as provided in this chapter.

8 Matters coming before the governing body shall be decided by majority vote of the
9 ~~representatives included in~~ members of the governing body. The governing body shall annually
10 elect from among its membership a ~~chairman, vice chairman~~ chair, vice chair, secretary, and
11 treasurer, and the governing body may employ staff as necessary, pursuant to § 46A-10B-13.

12 Section 3. That chapter 46A-10B be amended by adding thereto a NEW SECTION to read
13 as follows:

14 Before any general election, the governing body shall give notice of any district offices for
15 which nominations may be filed. The notice shall be published at least once each week for two
16 consecutive weeks in the official newspaper or newspapers of any counties within the territory
17 of the district. The last publication may not be less than ten nor more than fifteen days before the
18 deadline for filing nominating petitions.

19 Members of the governing body shall be nominated by a petition signed by twenty-five or
20 more voters in the district for which the candidate seeks election. The petition shall be verified
21 by the circulator and be accompanied by the declaration of the candidate in a form substantially
22 conforming to nominating petitions prescribed under the primary election laws of this state
23 governing nominating petitions for nonpolitical candidates. The petition shall be filed with the
24 district on or before July first of the year in which the general election is to be held. The district
25 shall notify the auditors of the counties in which portions of the district are located, and the

1 auditors shall prepare ballots substantially in the form of the nonpolitical ballot and give notice
 2 thereof as provided by the general election laws of this state. The members of the governing
 3 body shall be elected by plurality.

4 The election shall be conducted, canvassed, recounted, and contested as elections under the
 5 general laws of this state, except as otherwise provided in this chapter, and unless the general
 6 laws are inapplicable. If the details concerning the conduct, canvassing, recounting or contest
 7 of the election are not set forth within this chapter, and the general election laws are not
 8 applicable, the Board of Water and Natural Resources shall promulgate rules pursuant to chapter
 9 1-26 to make possible the submission to an election any matter which by the terms of this chapter
 10 may be submitted to a vote of the voters of any proposed or established district.

11 Section 4. That chapter 46A-10B be amended by adding thereto a NEW SECTION to read
 12 as follows:

13 A vacancy in the term of any member of the governing body of the district shall be filled by
 14 appointment by a majority of the other members to serve until the next general election at which
 15 time the vacancy shall be filled by the voters for the unexpired term.

16 Section 5. That § 46A-10B-10 be repealed.

17 ~~46A-10B-10. The governing body may take none of the following actions without approval~~
 18 ~~by the affected governments of each county and each municipality included wholly or partially~~
 19 ~~within the district:~~

20 ~~(1) Establishment of, and any increase in, fees levied pursuant to §§ 46A-10B-20,~~
 21 ~~46A-10B-21 or 46A-10B-22;~~

22 ~~(2) Approval of any contract for planning, construction, repair, renovation, demolition~~
 23 ~~or dismantling of any district project or facility;~~

24 ~~(3) Approval or amendment of the master drainage plan pursuant to § 46A-10B-18;~~

25 ~~(4) The issuance of bonds pursuant to § 46A-10B-29; or~~

1 ~~(5) Reimbursement of costs pursuant to § 46A-10B-31.~~

2 Section 6. That § 46A-10B-16 be amended to read as follows:

3 46A-10B-16. The governing body shall separately assess each basin within the district for
4 facilities to be installed to serve each basin and to provide adequate drainage in each basin. The
5 governing body shall designate the facilities to be installed, the time and schedule for installation
6 of facilities, and the method of assessing costs of facilities to be installed against property in the
7 basin. Assessments from one basin may not be used for improvements or expenses in another
8 basin unless the first basin also benefits from or contributes to the need for such improvements
9 or expenses.

10 Section 7. That § 46A-10B-29 be amended to read as follows:

11 46A-10B-29. The governing body may issue bonds pursuant to § 9-40-5 and chapter 6-8B
12 to carry out the purposes of this chapter. If the amount of the bond issue does not exceed an
13 amount that can economically be paid by district revenues during the term of the bond, no
14 election on the question of issuing the bonds is required. The district's bonded indebtedness may
15 not exceed an amount that could be retired by current assessments within fifteen years.

16 Section 8. That § 46A-10B-36 be amended to read as follows:

17 46A-10B-36. A drainage basin utility district may be dissolved only ~~by an act of the~~
18 ~~Legislature~~, by joint powers agreement of each county and each municipality included within the
19 district ~~or by a petition for dissolution of the district signed by at least two-thirds of the owners~~
20 ~~of real property in the district.~~ The dissolution agreement shall specify the division of the
21 dissolved district's assets and responsibilities among the member governments.

22 Section 9. That § 46A-10B-37 be repealed.

23 ~~46A-10B-37. Each person who signs the petition for dissolution shall add to his signature,~~
24 ~~in his own handwriting, his place of residence, a legal description of his real property within the~~
25 ~~district and the date of signing. The petition may contain more than one page, each page shall~~

1 have identical headings, and any number of identical petition forms may be circulated and each
2 be a part of the petition. Every page of the petition containing signatures shall have upon it and
3 below the signatures an affidavit by the circulator in substantially the following form:

4 STATE OF SOUTH DAKOTA)

5 _____) SS

6 COUNTY OF _____)

7 I, the undersigned _____, being first duly sworn, depose and say, that I am the
8 circulator of the foregoing petition containing _____ signatures; that each person whose name
9 appears on said petition sheet personally signed said petition in my presence; that I believe that
10 each of said signers is a resident at the address written opposite his name, and that I stated to
11 every petitioner before he affixed his signature the legal effect and nature of said petition.

12 _____

13 _____ Circulator

14 Subscribed and sworn to before me this _____ day of _____, 19____.

15 _____

16 _____ Notary Public

17 Section 10. That § 46A-10B-38 be repealed.

18 ~~46A-10B-38. The petition for dissolution shall be filed with the circuit court no more than~~
19 ~~ninety days after the creation of the district.~~

20 Section 11. That § 46A-10B-39 be repealed.

21 ~~46A-10B-39. At least once each week for two successive weeks before filing the petition for~~
22 ~~dissolution with the circuit court, the person filing the petition shall publish the petition and a~~
23 ~~notice of the filing in an official newspaper in each county in which land of the drainage basin~~
24 ~~utility district is located. The publication shall include the address to which written comments~~
25 ~~may be sent and a statement that the petition will be heard and acted upon by the circuit court,~~

1 ~~that the district was established without election, that the district is operated and administered~~
2 ~~by the governing body as designated in the petition and that the district is authorized to assess~~
3 ~~utility fees against property in the district.~~

4 Section 12. That § 46A-10B-40 be repealed.

5 ~~—46A-10B-40. If a petition for dissolution is filed with the circuit court as provided in this~~
6 ~~chapter, the court may dissolve the district.~~

7 Section 13. That chapter 46A-10B be amended by adding thereto a NEW SECTION to read
8 as follows:

9 The eligible voters of any drainage basin utility district may exercise the powers of initiative
10 and referendum for any action of the district. Any initiated or referred measure shall be
11 conducted under procedures substantially the same as those provided for municipalities in
12 chapter 9-20.

1 **BILL HISTORY**

2 1/17/98 First read in Senate and referred to Local Government. S.J. 68

3 1/26/98 Scheduled for Committee hearing on this date.

4 1/26/98 Local Government Deferred to another day.

5 1/26/98 Local Government Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 189