



MEMORANDUM

Comfort Lake-Forest Lake Watershed District

Date: December 13, 2023
To: CLFLWD Board of Managers
From: Mike Kinney, District Administrator
Subject: 103D Housekeeping Items



District Wide

Background/Discussion

The purpose of this agenda item is to provide the Board with a summary of updates being made to MN Statute 103D. Legal Counsel will provide more information at the December 20th meeting. Additional details are enclosed.

Attached

- Memo – 103D Housekeeping Summary
- Draft 103D Housekeeping Amendments



250 Marquette Ave. So.
Suite 250
Minneapolis, MN 55401
(612) 344-1400

www.smithpartners.com

MEMORANDUM

TO: Jan Voit, Administrator, Minnesota Watersheds
Rob Sip, Executive Director, Red River Watershed Management Board

FROM: Louis Smith
Chuck Holtman

DATE: December 12, 2023

RE: Housekeeping Amendments to Watershed Law, Chapter 103D

Introduction

The 1955 Watershed Law (currently Minnesota Statutes chapter 103D) gave Minnesota a unique approach to managing water resources through a special purpose unit of government created voluntarily within a hydrologic boundary. While there have been occasional amendments, overall, the Watershed Law remains largely unchanged. Watershed districts play a growing role in designing and implementing Clean Water and flood mitigation projects, often in collaboration with other partners to achieve multiple goals through the One Watershed One Plan process. The 103D planning statutes need clarification to affirm the role of watershed districts' plans in this integrated process. Modernizing "housekeeping" revisions to the statute will provide more procedural clarity as communities prepare local infrastructure for climate resiliency through integrated planning and will address several longstanding ambiguities or anomalies.

At your direction, we have worked with watershed administrators to identify and prioritize changes to Chapter 103D that are noncontroversial yet important. Leaders of the Board of Water and Soil Resources have encouraged and supported this process. This memorandum provides a summary of those proposed changes to clarify several issues concerning watershed governance and simplify and streamline project procedures.

Watershed Governance

The housekeeping revisions address the following issues in watershed governance and administration:

Establishment of a watershed district

- Notify adjacent watershed districts and SWCDs of establishment hearing;
- Clarify manager distribution among counties;
- Extend time for new watershed district to convene first meeting;

Redistributing, increasing number of managers

- Notify managers and SWCDs of hearing to increase managers;
- Clarify district petition to increase managers must be by resolution;
- Add filing requirements for BWSR order to increase managers;
- Allow BWSR to stipulate new manager terms; clarify that county appoints new managers;
- Allow BWSR to re-stagger terms when redistributing managers among counties;

Boundary changes:

- Require petitioners for watershed district boundary changes to reside in the area affected by the change;
- Provide for notice to managers of boundary change hearing;
- Require orders for boundary changes to be filed with the state and county auditors;
- Allow managers to petition for boundary change to increase or decrease watershed district area;

Watershed Plan

- Clarify watershed district role in distribution of plan;
- Clarify timing of BWSR comment process for plan, plan revisions;

Termination of a watershed district:

- Notify watershed board of managers when a petition to terminate the watershed district has been filed;
- Clarify that watershed managers must be notified of a hearing to terminate the watershed district;
- Allow a termination hearing to be held outside of the watershed district boundaries if there is no suitable location within the watershed district;

Miscellaneous

- Define “principal place of business”;
- Delete requirement for a seal;
- Specify that annual audit must be filed with BWSR and state auditor;
- Clarify watershed district may require “financial assurance” for permit in form other than bond;
- Clarify that the appointing county board of commissioners may remove a watershed district manager for cause.

The following table summarizes draft amendments to Chapter 103D to address these issues in watershed governance and administration:

Governance & Administration Amendments	STATUTE
Modernize watershed district purposes	103D.201, Subd. 2
Require petitioners to reside in area affected by change	103D.251, Subd. 5(a)
Notify managers of boundary change hearing	103D.251, Subd. 6
Notify managers of hearing to narrow boundary	103D.255, Subd. 1(3)
Allow managers to petition to narrow boundary; adjust standard for number of resident petitioners	103D.255, Subd. 1(b)

Require order to narrow boundary be filed with state, county auditors	103D.255, Subd. 2(d)
Allow managers to petition to enlarge district; adjust standard for number of resident petitioners	103D.261, Subd. 1(a)
Notify managers of hearing to enlarge boundary	103D.261, Subd. 1(d)
Require order to enlarge boundary be filed with state, county auditors	103D.261, Subd. 2(a)
Notify managers that termination petition has been filed	103D.271, Subd. 7
Allow termination hearing outside of district if no suitable location within	103D.271, Subd. 7
Notify managers of termination hearing	103D.271, Subd. 8(b)
Allow BWSR to re-stagger manager terms	103D.301, Subd. 3
Clarify that board petition to increase managers must be by resolution	103D.305, Subd 2
Add filing requirements for BWSR order to increase managers; allow BWSR to stipulate new manager terms; clarify that county appoints new managers	103D.305, Subd. 5
Delete requirement for seal	103D.315, Subd. 4
Extend time for new WD to hold first meeting and clarify location	103D.315, Subd. 9
Define "principal place of business"	103D.321
Add tribal representative to Advisory Committee	103D.331, Subd. 2
Clarify that watershed district may dispose of property	103D.335, Subd. 11
Clarify that WD may require "financial assurance" for permit in form other than bond	103D.345, Subd. 4
Specify that annual audit must be filed with BWSR and auditor	103D.355, Subd. 1
Clarify that appointing county may remove manager for cause	103D.357
Clarify that watershed district retains own planning authority notwithstanding participation in 1W1P	103D.401, Subd. 1
Delete irrelevant references to Met Council role in nonmetro watershed district plans.	103D.401, Subd. 1-4
Clarify timing of BWSR comment process for plan revisions; Clarify WD duty to hold hearing, distribute plan, adopt plan; include process for WD to seek reconsideration of BWSR plan decision; Update plan amendment provisions	103D.401, Subd. 2-6
Related changes, deletions related to planning process changes described above	103D.405, .411

Project Initiation and Procedure

The current statute presents a confusing variety of processes to initiate watershed district projects (projects initiated by managers, basic water management projects and government aid projects, or projects initiated by petition). The proposed housekeeping revisions would simplify these statutes to provide that all watershed district projects must be authorized by the district's plan and may be initiated either by petition or by the board of managers. Further, regardless of how a project may be initiated, all of the statutorily authorized funding mechanisms would be available to the board of managers for any given project.

The following table summarizes proposed amendments to achieve these changes for project initiation and procedure:

#	Project Initiation & Procedure Amendments	STATUTE
1	Repeal Project Initiated by Managers	103D.601
2	Repeal Project Constructed with Government Aid Or as Part of Plan	103D.605
3	Repeal Construction by Government Agencies	103D.611
4	Amend to create single project initiation statute	103D.701
5	Adjust title and provide for petition to request sources of funding other than assessments; repeal references to drainage projects, which should proceed under 103E	103D.705
6	Create new statute for projects initiated by managers	103D.707
7	Amend to incorporate report by engineer or other qualified professional for all projects	103D.711
8	Amend to clarify appraisers for assessment projects	103D.715
9	Repeal reference to 103E.311 et seq for array of watercourse and flood control projects	103D.725
10	Insert cross reference to section 444.075 for water management district charges collection	103D.729

We would be pleased to provide any further information you may require.

HOUSEKEEPING AMENDMENTS TO WATERSHED ACT CHAPTER 103D
December 11, 2023 DRAFT

103D.201 WATERSHED DISTRICT PURPOSES.

Subdivision 1. **General purposes.** To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of watershed districts is authorized under this chapter.

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Subd. 2. **Specific purposes.** A watershed district may be established for, and use its powers to advance any of the following purposes:

- (1) to control or alleviate damage from floodwaters and promote climate resilience;
- (2) to protect, improve or restore stream channels watercourses and water basins for drainage, navigation, water quality, flood mitigation, and any other public purpose;
- (3) to ~~reclaim~~ manage impacts to, restore, or fill replace wet and overflowed land;
- (4) to provide a water supply for irrigation;
- (5) to regulate and conserve the flow of streamswatercourses ~~and conserve the streams'~~ water;
- ~~(6) to divert or change all or part of watercourses;~~
- ~~(7)~~ to provide or conserve water supply for domestic, industrial, recreational, agricultural, or other public use;
- ~~(8)~~ to provide for sanitation and public health, and regulate the use of streams, ditches, or watercourses to dispose of waste;
- ~~(9)~~ to repair, improve, relocate, modify, consolidate, and abandon all or part of drainage systems within a watershed district;
- ~~(10)~~ to control or alleviate soil erosion and siltation of watercourses or water basins;
- ~~(11)~~ to regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use;
- ~~(12)~~ to provide for hydroelectric power generation;
- ~~(13)~~ to protect or enhance the water quality in watercourses or water basins; ~~and~~
- ~~(14)~~ to provide for the protection of groundwater and regulate its use to preserve it for beneficial purposes-; and
- (14) to otherwise manage and protect surface and groundwaters for all beneficial purposes.

103D.251 WATERSHED DISTRICT BOUNDARY CHANGES.

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Subd. 5. Petition signatures. (a) A petition for a watershed boundary change must be signed by:

(1) at least one-half of the counties within the proposed watershed district if the boundary change were adopted;

(2) counties having at least 50 percent of the area within the proposed watershed district if the boundary change were adopted;

(3) a majority of the cities within the proposed watershed district if the boundary change were adopted;

(4) at least 50 resident owners in the ~~proposed watershed district~~ area to be added or subtracted by the proposed ~~if the~~ boundary change if it were adopted, excluding resident owners within the corporate limits of a city, if the city has signed the petition; or

(5) the managers of a watershed district affected by the proposed boundary change.

(b) The managers must pass a resolution authorizing the boundary change before the managers sign a petition for a boundary change.

Subd. 6. Hearing.

The board must set a time and location for a hearing and give notice of the hearing in the same manner as an establishment hearing and further must give notice of the hearing by mail at least ten days before the hearing to the watershed district affected by the proposed boundary change. If a petition for a boundary change involves a common boundary of two or more watershed districts, the board must determine the watershed district where the hearing will be held.

103D.255 WITHDRAWING TERRITORY.

Subdivision 1. Petition.

(a) Proceedings to withdraw territory from an existing watershed district must be initiated by a petition filed with the board.

(b) A majority of the managers may file a petition for withdrawal. Otherwise, the required signatures on a petition for withdrawal are the same as prescribed for an establishment petition, but the percentages must be calculated only with reference to the territory that is proposed to be withdrawn from the watershed district.

(c) The petition must state that:

(1) the territory described has not received or will not receive any benefits from the operation of the watershed districts;

(2) the watershed district can perform the functions for which it was established without the inclusion of the territory; and

(3) the territory is not, in fact, a part of the watershed.

(d) The petition must request the release of the described territory from the watershed district.

(e) The petition must be served on the board and any affected watershed district, and the board shall proceed as prescribed for an establishment petition. The requirements for notices and public hearings are as prescribed for the establishment petition. In addition, the board must give notice of the hearing by mail at least ten days before the hearing to each watershed district affected by the proposed withdrawal of territory.

Subd. 2. Board's order of withdrawal. (a) After the hearing the board may issue an order releasing the territory, or a part of the territory, as described in the petition, if the board determines that:

(1) the territory described in the petition has not received and will not receive any benefit from the operation of the watershed district;

(2) the watershed district can perform the functions for which it was established without the inclusion of the territory; and

(3) the territory is not, in fact, a part of the watershed.

(b) Property may not be released that has been determined subject to benefits or damages for a project previously constructed.

(c) Property released remains liable for the proportionate share of any indebtedness existing at the time of the order. Levies on the property released continue in force until fully paid.

(d) If the board determines that the order prescribing the distribution of managers should be amended following the withdrawal of any territory, the board may direct redistribution of managers in the order authorizing the withdrawal.

(e) The board must file a certified copy of the findings and order of withdrawal with the secretary of state, the auditor of each county affected by the watershed district, the commissioner, the director, and the watershed district.

103D.261 PROCEEDINGS TO ENLARGE WATERSHED DISTRICT.

Subdivision 1. **Petition.** (a) Proceedings to enlarge an existing watershed district must be initiated by a petition filed with the board. A majority of the managers may file a petition. Otherwise, the required signatures on a petition to enlarge are the same as for an establishment petition, but the percentages must be calculated only with reference to the territory that is proposed to be added to the watershed district. The petition must:

(1) state that the area to be added is contiguous to the existing watershed district;

(2) state that the area can be feasibly administered by the managers of the existing watershed district;

(3) state reasons why adding the area to the existing watershed district would be conducive to the public health and welfare;

(4) include a map of the affected area;

(5) state the name of the proposed enlarged watershed district, if other than that of the existing watershed district; and

(6) state a request for the addition of the proposed territory.

(b) The petition must be served on the board and affected watershed districts, and the board must proceed as prescribed for an establishment petition.

(c) The requirement of notice and public hearings is as prescribed for the establishment petition. In addition, the board must give notice of the hearing by mail at least ten days before the hearing to each watershed district affected by the proposed withdrawal of territory..

Subd. 2. **Board order.**

(a) After the hearing, if the board determines that the enlargement of the watershed district as asked for in the petition would be for the public welfare and public interest and the purpose of this chapter would be served, the board shall, by making findings and an order, enlarge the watershed district and file a certified copy of the findings and order with the secretary of state, the auditor of each county affected by the watershed district, the commissioner, the director, and the watershed district.

(b) The name of the watershed district may be changed by order of the board if requested in the petition to enlarge the watershed district.

103D.271 PROCEDURE FOR TERMINATING WATERSHED DISTRICT.

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Subd. 4. **Termination petition.** (a) The termination petition must be signed by at least 25 percent of the resident owners residing in the watershed district. The termination petition must state that the existence of the watershed district does not benefit the public welfare and public interest and the watershed district is not needed to accomplish the purposes of this chapter.

(b) The petitioners must file a copy of the termination petition with the auditors of the counties affected by the watershed district. The original termination petition with a statement signed for delivery or receipt of each of the termination petitions submitted to the auditors of counties affected by the watershed district must be filed with the board.

Subd. 7. **Termination hearing order.** When the board determines a termination petition has been filed that meets the requirements of subdivisions 4 and 5, the board must, by order,

set a time by 35 days after its determination and a location within the watershed district for a termination hearing; or, if public facilities are not available within the watershed district, the nearest suitable public facility. The board must have each manager of the watershed district personally served with a copy of the order.

103D.301 DISTRIBUTION OF MANAGER POSITIONS.

Subdivision 1. More than one affected county. If more than one county is affected by a watershed district, the board must provide that managers are distributed by residence among the counties affected by the watershed district and in proportion to the counties' portion of the land area and net tax capacity of the watershed.

Subd. 2. More than five affected counties. If more than five counties are affected by a watershed district, the board may provide for the orderly distribution of the managers by identifying the manager areas within the watershed district and selecting the county board of commissioners for each manager's area to appoint a manager.

Subd. 3. Redistribution. (a) After ten years from the establishment of the watershed district, the county board of commissioners of a county affected by the watershed district may petition the board to redistribute the managers. After holding a public hearing on redistributing the managers, the board may redistribute the managers among the counties affected by the watershed district if the redistribution is in accordance with the policy and purposes of this chapter.

(b) A petition for the redistribution of managers may not be filed with the board more often than once in ten years.

(c) If more than one county is affected by a watershed district, the board must distribute the one-, two-, and three-year terms among counties affected by the watershed district. The board may redistribute the three-year terms upon redistributing the managers among the affected counties or increasing the number of managers.

103D.305 INCREASING NUMBER OF MANAGERS.

Subdivision 1. Initiation. A proceeding to increase the number of managers of a watershed district must be initiated by filing a petition with the board.

Subd. 2. Petition signatures. The petition to increase the number of managers must request the increase and be signed by one or more of the following groups:

- (1) one-half or more of the counties within the watershed district;
- (2) counties with 50 percent or more of the area within the watershed district;

(3) a majority or greater number of the cities within the watershed district;

(4) 50 or more resident owners residing in the watershed district, excluding resident owners within the corporate limits of a city if the city has signed the petition; or

(5) the managers of the watershed district, by resolution adopted by a majority of the managers of the watershed district.

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Subd. 5. **Hearing.** (a) If the board determines at the hearing that an increase in the number of managers would benefit the public welfare, public interest, and the purpose of this chapter, the board must increase the number of managers. The board shall make findings and an order accordingly and file a certified copy of the findings and order with the secretary of state, the auditor of each county affected by the watershed district, the commissioner, the director, and the watershed district. The board's order shall prescribe the terms for the new managers to be appointed by the designated county board or boards.

(b) If the watershed district affects more than one county, the board, by order, must direct the distribution of the managers among the affected counties.

103D.315 MANAGERS.

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Subd. 4. ~~**Seal.** The managers must adopt a seal for the watershed district.~~

[renumber remaining sections accordingly]

Subd. 9 [8] **.First meeting of managers.**

(a) Within ~~ten~~ thirty days after the first board of managers has received notice by personal service of their selection, the managers must meet at the watershed district's principal place of business.

(b) At the first meeting, the managers must take the oath under subdivision 1, provide a bond under subdivision 2, elect officers under subdivision 3, and appoint an advisory committee under section [103D.331](#).

103D.321 PRINCIPAL PLACE OF BUSINESS.

Subdivision 1. **Unavailable public facilities.** If public facilities are not available for a watershed district's principal place of business within the watershed district, the board shall determine and designate the nearest suitable public facility as the watershed district's principal place of business. The principal place of business is the location of the watershed

district's office, or if it has no office, the location of regular meetings of the board of managers.

103D.331 ADVISORY COMMITTEE.

Subdivision 1.**Purpose.** The managers must annually appoint an advisory committee to advise and assist the managers on all matters affecting the interests of the watershed district and make recommendations to the managers on all contemplated projects and improvements in the watershed district.

Subd. 1a.**Duties.** For purposes of carrying out its duties under this section the advisory committee shall:

- (1) elect a chair from its membership;
- (2) elect a recorder from its membership;
- (3) establish a meeting schedule, which at a minimum meets annually;
- (4) consider issues pertinent to the functions and purposes of the watershed district;
- (5) review and comment on reports, minutes, activities, and proposed projects of the managers; and
- (6) report to the managers the general content of advisory committee meetings and resulting recommendations.

Subd. 2.**Members.** (a) The advisory committee consists of at least five members. If practicable, the advisory committee members selected should include a representative from each soil and water conservation district, a representative of each county, a member of a sporting organization, ~~and~~ a member of a farm organization, and a member of a federally recognized Indian Tribe. Other advisory committee members may be appointed at the discretion of the managers. The members must be residents of the watershed district, except representatives from soil and water conservation districts and counties, and serve at the pleasure of the managers.

(b) In addition, the managers may appoint other interested and technical persons who may or may not reside within the watershed district to serve at the pleasure of the managers.

103D.335 DISTRICT AND MANAGERS' POWERS.

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Subd. 11.**Acquiring or disposing of property.**

The managers may acquire by gift, purchase, taking under the procedures of this chapter, or by the power of eminent domain, necessary real and personal property, and may dispose of real or personal property when it no longer serves a purpose of the watershed district. The watershed

district may acquire property outside the watershed district where necessary for a water supply system.

103D.345 PERMITS.

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Subd. 4. **Bond, financial assurance.** The managers may require an applicant for a permit to file a bond or other form of financial assurance with the managers in an amount set by the managers and conditioned on performance by the applicant of authorized activities in conformance with the terms of the permit.

103D.355 ANNUAL AUDIT.

Subdivision 1. **Requirement.** The managers must have an annual audit completed of the books and accounts of the watershed district. The annual audit may be made by a private certified public accountant or by the state auditor. The managers shall submit the annual audit report to the board and the state auditor's office within 180 days of the end of the watershed district's fiscal year.

103D.357. REMOVAL OF MANAGERS.

A manager of a watershed district may be removed from the position by a majority vote of the appointing authority before term expiration for violation of a code of ethics of the watershed district or for malfeasance, nonfeasance, or misfeasance, after being provided an opportunity for a hearing before the appointing authority.

103D.401 WATERSHED MANAGEMENT PLAN.

Subdivision 1. **Contents.** (a) The managers must adopt and maintain a watershed management plan ~~for any or all of~~ to exercise the powers and fulfill the purposes for which a watershed district may be established. The watershed management plan must give a narrative description of existing water and water-related problems within the watershed district, possible solutions to the problems, and the general objectives of the watershed district. The watershed management plan must also conform closely with watershed management plan guidelines as adopted and amended from time to time by the Board of Water and Soil Resources. The authority to adopt and maintain a watershed management plan under this section is retained notwithstanding a watershed district's participation in a comprehensive watershed management planning program pursuant to section 103B.801.

(b) The watershed management plan may include a separate section on proposed projects. ~~If the watershed district is within the metropolitan area, the separate section of~~

proposed projects or petitions for projects to be undertaken according to the watershed management plan is a comprehensive plan of the watershed district for purposes of review by the Metropolitan Council under section [473.165](#).

Subd. 2. **Reviewing draft plan.** The managers must send a copy of the proposed watershed management plan for a 60-day review and comment period to the county auditor of each county affected by the watershed district, the board, the commissioner, the director, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district. ~~For a watershed district within the metropolitan area, a copy of the proposed watershed management plan must also be submitted to the Metropolitan Council.~~ The managers must respond in writing to all comments by the reviewing parties at least ten days before the public hearing.

Subd. 3. ~~**Director's and Metropolitan Council's recommendations.** After receiving the watershed management plan, the director and the Metropolitan Council must review and make recommendations on the watershed management plan. By 60 days after receiving the plan, the director and the Metropolitan Council must send their recommendations on the watershed management plan to the board and a copy to the managers of the watershed district, the county auditor of each county affected by the watershed district, the governing bodies of all municipalities affected by the watershed district, and soil and water conservation districts affected by the watershed district. The board may extend the period for review and transmittal of the recommendations.~~

Subd. 4. **Hearing notice.** (a) ~~The board~~ managers must give notice and hold a watershed management plan hearing on the proposed watershed management plan by 45 days after ~~receiving the director's and Metropolitan Council's recommendations~~ the close of the 60-day review and comment period.

(b) ~~The board~~ managers must give notice of the watershed management plan hearing by publication in a legal newspaper that is published in counties affected by the watershed district. The last publication must occur at least ten days before the watershed management plan hearing.

(c) ~~The board~~ managers must give notice of the watershed management plan hearing by mail to the auditors of counties and to the chief executive officials of municipalities affected by the watershed district.

(d) The notice must include:

(1) a statement that a copy of the proposed watershed management plan has been filed with the board, ~~the Metropolitan Council, where applicable,~~ the auditors of counties affected by the proposed watershed district, the commissioner, the director, the governing body of each municipality affected by the watershed district, and the soil and water conservation districts affected by the watershed district;

(2) a general description of the purpose of the watershed district;

(3) a general description of the property included in the watershed district;

- (4) a general description of the proposed watershed management plan;
- (5) the date, time, and location of the hearing; and
- (6) a statement that all persons affected or interested in the watershed district may attend and give statements at the watershed management plan hearing.

Subd. 54. **Board approval.** After the watershed management plan hearing, the managers shall submit the draft plan, any amendments thereto, all written comments received on the draft plan, a record of the public hearing, and a summary of changes incorporated as a result of the review process to the board for final review. The board shall review the plan for conformance with chapter 103D. The board shall not prescribe a plan but may disapprove all or parts of a plan that it finds not to conform with chapter 103D. ¶The board must complete its review within 90 days, and, by order, prescribe and approve, disapprove, or approve with conditions a watershed management plan for the watershed district. A watershed district may seek reconsideration of a decision of the board concerning its plan or capital improvement program within 60 days of receiving the decision by filing an appeal to the board’s dispute resolution committee established pursuant to section 103B.101, subdivision 10. The dispute resolution committee shall complete its reconsideration and make a recommendation to the board, which shall issue a final decision within 90 days of the appeal.

Subd. 65. **Adoption.** Within 120 days of the board’s order, the managers shall adopt a plan in compliance with the board’s order. ¶The board managers must send a copy of the order and approved watershed management plan to the managersboard, the county board of each county affected by the watershed district, the commissioner, the director, the Metropolitan Council, where applicable, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district. The watershed management plan approved by the board and adopted by the managers is the watershed management plan for the watershed district.

Subd. 6. **Amendments.** (a) The following changes to a plan do not require an amendment, but only distribution to agencies and local units of government receiving an adopted plan pursuant to subdivision 5:

- (1) Formatting or reorganization of the plan;
- (2) Revision of a procedure meant to streamline administration of the plan;
- (3) Clarification of existing plan goals or policies;
- (4) Inclusion of additional data not requiring interpretation;
- (5) Expansion of public process; or
- (6) Adjustments to how a watershed district will carry out program activities within its discretion.

(b) To the extent and in the manner required by the adopted plan, all amendments to the adopted plan shall be submitted to the towns, cities, counties and state review agencies, and to the board, for review in accordance with the provisions of subdivisions 2-5, except when

the proposed amendments are determined to be minor amendments according to the following provisions:

(1) the board has either agreed that the amendments are minor or failed to act within five working days of the end of the comment period specified in item (b) unless an extension is mutually agreed to with the watershed district;

(2) the watershed district has sent copies of the amendments to the plan review authorities for review and comment allowing at least 30 days for receipt of comments, has identified the minor amendment procedure is being followed, and directed that comments be sent to the watershed district and the board;

(3) no county board has filed an objection to the amendments with the watershed district and the board within the comment period specified in item (b) unless an extension is mutually agreed upon by the county and the watershed district; and

(4) the watershed district has held a public meeting to explain the amendments and published a legal notice of the meeting twice, at least seven days and 14 days before the date of the meeting.

103D.405 REVISED WATERSHED MANAGEMENT PLAN.

Subdivision 1. **Requirements.** (a) The managers ~~and the board~~ must revise the watershed management plan for the watershed district at least once every ten years after the original watershed management plan is approved. The revised watershed management plan of the district must conform closely with adopted watershed management plan guidelines of the ~~Board of Water and Soil Resources~~ Board of.

(b) The managers must include the following items in the revised watershed management plan:

(1) updates and supplements of the existing hydrological and other statistical data of the watershed district;

(2) specific projects and programs to be considered for implementation;

(3) a statement of the extent that the purposes for which the watershed district had been established have been accomplished;

(4) a description of problems requiring future action by the watershed district;

(5) a summary of completed studies on active or planned projects, including financial data; and

(6) an analysis of the effectiveness of the watershed district's rules and permits in achieving its water management objectives in the watershed district.

(c) A revised watershed management plan must be transmitted, reviewed, recommended, and approved as provided in section 103D.401.

~~Subd. 2. Required ten-year revision. (a) After ten years and six months from the date that the board approved a watershed management plan or the last revised watershed management plan, the managers must consider the requirements under subdivision 1 and adopt a revised watershed management plan outline and send a copy of the outline to the board.~~

~~(b) By 60 days after receiving a revised watershed management plan outline, the board must review it, adopt recommendations regarding the revised watershed management plan outline, and send the recommendations to the managers.~~

~~(c) After receiving the board's recommendations regarding the revised watershed management plan outline, the managers must complete the revised watershed management plan.~~

~~Subd. 3. Review. The managers must send a copy of the revised watershed management plan to the board, the county board and county auditor of each county affected by the watershed district, the director, the governing body of each municipality affected by the watershed district, soil and water conservation districts affected by the watershed district, and the Metropolitan Council, if the watershed district is within the metropolitan area.~~

~~Subd. 4. Director's and Metropolitan Council's recommendations. The director and the Metropolitan Council, if applicable, must review and make recommendations on the revised watershed management plan. By 60 days after receiving the revised watershed management plan unless the time is extended by the board, the director and the council must send the recommendations on the revised watershed management plan to the board, and a copy of the recommendations to the managers, the county auditor of each county affected by the watershed district, the governing body of each municipality affected by the watershed district, and soil and water conservation districts affected by the watershed district.~~

~~Subd. 5. Notice. (a) The board must give notice and hold a revised watershed management plan hearing on the proposed revised watershed management plan by 45 days after receiving the director's and Metropolitan Council's recommendation.~~

~~(b) The board must give notice of the revised watershed management plan hearing by publication in a legal newspaper published in counties affected by the watershed district. The last publication must occur at least ten days before the revised watershed management plan hearing.~~

~~(c) The board must give notice of the revised watershed management plan hearing by mail to the auditors of counties and to the chief executive officials of municipalities affected by the watershed district.~~

~~(d) The notice must include:~~

~~(1) a statement that a copy of the proposed revised watershed management plan has been filed with the board, the Metropolitan Council, where applicable, the auditors of counties affected by the proposed watershed district, the commissioner, the director, the governing body of each municipality affected by the watershed district, and the soil and water conservation districts affected by the watershed district;~~

- (2) a general description of the purpose of the watershed district;
- (3) a general description of the property included in the watershed district;
- (4) a general description of the proposed revised watershed management plan;
- (5) the date, time, and location of the hearing; and
- (6) a statement that all persons affected or interested in the watershed district may attend and give statements at the revised watershed management plan hearing.

~~§Subd. 6. Board order. After the revised watershed management plan hearing, the board must prescribe a revised watershed management plan for the watershed district. The board must send a copy of the order and approved revised watershed management plan to the managers, the county board of each county affected by the watershed district, the commissioner, the director, the Metropolitan Council, where applicable, and soil and water conservation districts affected by the watershed district. The revised watershed management plan approved by the board is the revised watershed management plan for the watershed district.~~

~~103D.411 AMENDMENT OF WATERSHED MANAGEMENT PLAN AND REVISED WATERSHED MANAGEMENT PLAN.~~

~~The managers may initiate an amendment of a watershed management plan or revised watershed management plan by submitting a petition with the proposed amendment to the board. The board must give notice and hold a hearing on the amendment in the same manner as for the watershed management plan. After the hearing, the board may, by order, approve or prescribe changes in the amendment. The amendment becomes part of the watershed management plan after approval by the board. The board must send the order and approved amendment to the entities that receive an approved watershed management plan under section [103D.401, subdivision 5](#).~~

103D.601 PROJECT INITIATED BY MANAGERS.

~~Subdivision 1. **Requirements.** (a) The managers may initiate a project by resolution of at least a majority of the managers if:~~

~~(1) the project is financed by grants totaling at least 50 percent of the estimated project cost; and~~

~~(2) the engineer's estimate of costs to parties affected by the watershed district, including assessments against benefited properties but excluding state, federal, or other grants, is not more than \$750,000 for the project.~~

~~(b) A resolution under this subdivision may not be used to establish a project that has drainage as its essential nature and purpose.~~

~~Subd. 2. **Preliminary resolution hearing notice.** (a) The managers must set the time and location for a preliminary resolution hearing on the proposed resolution for the project.~~

~~(b) The managers must give notice of the preliminary resolution hearing by publication in a legal newspaper published in the counties affected by the watershed district. The last publication must occur at least ten days before the preliminary resolution hearing.~~

~~(c) The preliminary resolution hearing notice must contain:~~

~~(1) the date, time, and place of hearing;~~

~~(2) the substance of the proposed project resolution;~~

~~(3) the means of financing the project; and~~

~~(4) a statement that all persons who might be affected by the proposed project or who may be interested in the proposed project may appear and be heard.~~

~~(d) Defects in the notice do not invalidate the proceedings.~~

~~Subd. 3. **Preliminary report and information.**~~

~~(a) The managers must have the watershed district engineer or another competent person prepare a preliminary report advising the managers whether the proposed project is feasible and estimating the cost of the project. An error or omission in the preliminary report does not invalidate the proceeding.~~

~~(b) The managers may have other helpful information prepared that will aid in determining the desirability and feasibility of the project.~~

~~Subd. 4. **Unfavorable preliminary report.**~~

~~If the preliminary report is unfavorable, the managers must set a time and location for a hearing in the manner provided for the preliminary resolution. After the hearing, the project may be referred back to the watershed district engineer or another competent person for further study and report, or the managers may dismiss the proceeding.~~

~~Subd. 5. **Final resolution.**~~

~~If, after the hearing, the managers determine that the proposed project promotes the public interest and welfare and is practicable and in conformity with the watershed management plan of the watershed district, the managers must adopt a final resolution approving the project and identify the proceeding by name and number.~~

Subd. 6. Further procedure.

(a) When a final resolution is adopted, the proceeding must continue as provided for a project initiated by a petition.

(b) After the managers file a statement listing the property benefited, damaged, or otherwise affected by a project with the auditors of counties affected by the project, the proceedings for the project must continue under section [103D.901](#).

103D.605 PROJECT CONSTRUCTED WITH GOVERNMENT AID OR AS PART OF PLAN.

Subdivision 1. Required procedure.

The procedure in this section must be followed if:

(1) a project is to be constructed within the watershed district under an agreement between the managers and the state or federal government and the cost of the project is to be paid for in whole or in part by the state or federal government, but the rights of way and the cost of the project are assumed by the watershed district; or

(2) the managers are undertaking all or a portion of the basic water management project as identified in the watershed management plan.

Subd. 2. Board and director reports.

A copy of the project plan must be transmitted to the board and the director. The board and the director must review the project plan and prepare reports on the project. The reports must be transmitted to the managers.

Subd. 3. Project hearing notice.

(a) After receiving the board's and the director's reports, the managers must set a time and location for a hearing on the proposed project.

(b) The project hearing notice must state:

(1) the time and location of the project hearing;

(2) the general nature of the proposed project;

(3) the estimated cost of the proposed project; and

(4) the method by which the cost of the proposed project is to be paid, including the cost to be allocated to each affected municipality or the state government.

(c) The managers must give notice by publication before the date of the hearing in a legal newspaper, published in the counties where property is to be improved by the proposed project. The last publication must occur between 30 days and ten days before the project hearing.

(d) At least ten days before the project hearing, notice by mail must be given to the director and the municipalities entirely or partly within the project area.

(e) Failure to give mailed notice or defects in the notice do not invalidate the proceedings.

Subd. 4. Project hearing.

At the project hearing, the managers must hear all parties interested in the proposed project.

Subd. 5. Establishment order.

After the project hearing, if the managers find that the project will be conducive to public health, promote the general welfare, and is in compliance with the watershed management plan and the provisions of this chapter, the board must, by order, establish the project. The establishment order must include the findings of the managers.

103D.611 CONSTRUCTION BY GOVERNMENT AGENCIES.

Subdivision 1. Project plan to director and board.

If a project is to be constructed within the watershed district under a contract between the watershed district and the state or the federal government, and the cost of construction or implementation is to be paid by the governmental agency but the rights of way, legal, and general expenses of the improvement are to be paid by the watershed district, the managers shall forward a copy of the project plan to the board and the director. The director shall prepare a director's advisory report and the board shall prepare a board's advisory report.

Subd. 2. Hearing notice.

(a) The managers shall hold a public hearing on the proposed contract following publication of the hearing notice.

(b) The hearing notice must be published once each week for two successive weeks before the date of the hearing in a legal newspaper published in the counties where a part or all of the affected waters and lands are located. The last publication must occur at least ten days before the hearing. The notice must state the time and place of hearing, the general nature of the proposed improvement, its estimated cost, and the area proposed to be assessed.

(c) At least ten days before the hearing, notice must be mailed to each resident owner, as shown on the county auditor's most recent records maintained for taxation purposes, within the area proposed to be assessed, and to the director, and to each public body within the area to be assessed and likely to be affected. Failure to give mailed notice or defects in the notice do not invalidate the proceedings.

Subd. 3. Hearing.

At the time and place specified in the notice, the managers shall hear all interested parties for and against the proposed project. All questions relative to the project must be determined on evidence presented at the hearing. If the managers find that the project will be conducive to public health and will promote the general welfare, and that it complies with this chapter, the managers shall make findings accordingly, authorize the project, and make the proposed contract or other arrangement.

Subd. 4. Appraisal.

(a) After authorizing the project, the managers shall appoint three disinterested resident owners of the state to act as appraisers.

~~(b) After the appraisers sign an oath to faithfully and impartially perform their duties, they shall, with or without the engineer, determine the benefits and damages to property affected by the proposed project. The appraisers shall make a detailed statement and file the statement with the managers showing:~~

~~(1) the actual damages that have resulted or will result to individuals, property, or corporations from the construction or implementation of the project; and~~

~~(2) a list of property, including highways and corporations, receiving actual benefits by way of drainage, control of floodwaters, or other means authorized in this chapter.~~

~~Subd. 5. **Hearing on appraisers' report.**~~

~~(a) After the appraisers' report and the plans and engineering data prepared by the governmental agency are filed with the managers, the managers shall prepare a detailed statement of all costs, including damages, to be incurred by the watershed district in construction or implementation of the project.~~

~~(b) The managers shall order a time and place within the watershed district for a hearing on the appraisers' report by 35 days after the detailed statement of costs is prepared. The managers shall give notice by publication and mailing as provided in subdivision 1 for a hearing on a petition. At the time and place specified in the notice, the managers shall hear all parties interested for and against confirming the appraisers' report.~~

~~(c) The managers may order and direct the modification of the assessment of benefits and damages, and amend or change the list of properties reported as benefited or damaged. If the amended reports include property not included in the original report, the managers shall adjourn and publish and mail in the manner for the original notice, the proper notice concerning the property not included in the previous notice.~~

~~(d) If upon full hearing the managers find that the benefits resulting from the construction or implementation will be greater than the assessments including damages they shall confirm the appraisers' report.~~

~~(e) Persons or political subdivisions affected by the order may appeal the order under this chapter.~~

~~Subd. 6. **Assessments and levies.**~~

~~Proceedings for assessments and levies may be brought under section [103D.901](#) after the managers file a statement with the auditor of a county that lists the property and corporations benefited or damaged or otherwise affected by a project as found by the appraisers and approved by the managers.~~

~~Subd. 7. **Exempt from normal project initiation.**~~

~~Section [103D.701](#) relating to project initiation does not apply to projects of the watershed district constructed under contract as provided in this section.~~

~~Subd. 8. **Acquiring property.**~~

~~(a) If the watershed district is required to acquire an interest in real property under this section or convey an interest in real property to the federal government, the managers shall, before the filing of the appraisers' report, record a notice of the pendency of a proceeding~~

initiated by the managers to acquire the lands to be conveyed to the federal government. The notice of pendency must be recorded in the office of the county recorder of the affected county. The notice must state the purpose for which the lands are to be taken.

~~(b) By 20 days before the hearing on the appraisers' report, in addition to the notice required by subdivision 2, the notice of the hearing must be served on the owners of the property to be acquired, in the same manner as the summons in a civil action. The notice must:~~

- ~~(1) describe the property;~~
- ~~(2) state by whom and for what purpose the property is to be taken;~~
- ~~(3) give the names of all persons appearing of record or known to the managers to be the owners;~~
- ~~(4) state that appraisers have been appointed as provided by subdivision 4, to determine the benefits and damages; and~~
- ~~(5) state that a hearing will be held by the managers on the appraisers' report at the time and place specified in the notice.~~

~~(c) After the managers have confirmed the appraisers' report listing the property to be benefited or damaged as provided in subdivision 5, the managers have all rights of possession and entry conferred in other cases of condemnation by chapter 117.~~

~~(d) After confirmation of the appraisers' report, the attorney for the managers shall make a certificate describing the property taken and the purpose for the taking, and reciting the fact of payment of all awards determined by the appraisers appointed by the managers or judgments in relation to the land. When approved by the managers, the certificate establishes the right of the watershed district in the property taken. The certificate must be filed for record with the county recorder of the county where the property is located. The filing constitutes notice to all parties of the title of the watershed district to the property described in the certificate.~~

~~(e) After the certificate is filed, the managers may convey the property and interests in the property acquired to the federal government, if necessary.~~

103D.701 PROJECT INITIATION

Subdivision 1. **Initiation.** Projects may not be initiated until the board approves a watershed management plan for the watershed district. ~~The projects~~ A project of the watershed district ~~that are to be paid for by assessment of the benefited properties~~ must be initiated:

- (1) by a project petition filed with the managers;
- (2) by ~~unanimous~~ resolution of a majority of the members of the board of managers; or
- (3) as otherwise prescribed by this chapter.

Subd. 2. **Public Drainage Systems.** Proceedings for a project of the watershed district that consists of the maintenance, repair, construction or improvement of a drainage system, as that term is defined at Minnesota Statutes §103E.005, subdivision 12, must follow chapter 103E, and not this chapter, except as provided by sections 103D.621 and 103D.625.

103D.705 PROJECTS INITIATED BY PETITION.

Subdivision 1. **Requirements.** (a) A project within the watershed district that generally conforms with the watershed management plan may be initiated by a project petition. A project petition must contain:

- (1) a description of the proposed project and the purpose to be accomplished;
- (2) a description of the property where the proposed project passes over or is located;
- (3) a general description of the part of the watershed district that will be affected, if less than the entire watershed district;
- (4) the necessity for the proposed project;
- (5) a statement that the proposed project will be conducive to public health, convenience, and welfare; and
- (6) a statement that the petitioners will pay all costs and expenses that may be incurred if the proceedings are dismissed or a construction or implementation contract is not awarded for the proposed project.

(b) A petition may request that the managers adopt an initiating resolution pursuant to section 103D.707 in order to allow for sources of funding other than assessment to be used in whole or in part for the project. On adoption of a resolution, the managers will release the deposit or bond required by this section.

Subd. 2. **Signatures.**

- (a) The project petition must be signed by:
- (1) at least 25 percent of the property owners or the owners of more than 25 percent of the property within the limits of the area proposed to be improved, ~~unless the project consists of the establishment of a new drainage system as defined in section [103E.005, subdivision 12](#), or the improvement of an existing drainage system;~~
 - (2) ~~if the project consists of the establishment of a new drainage system as defined in section [103E.005, subdivision 12](#), a majority of the owners of the property that the proposed project passes over or is located on, or the owners of at least 60 percent of the area of the property that the proposed project passes over or is located on;~~
 - (3) ~~if the project consists of the improvement of an existing drainage system as defined in section [103E.215, subdivision 2](#), at least 26 percent of the owners of the property proposed to be improved by the project or that the proposed project passes over, or the owners of at least 26 percent of the area proposed to be improved by the project or that the proposed project passes over;~~
 - (4) a county board of a county affected by the watershed district; or
 - (5) the governing body of a city entirely or partly within the area proposed to be improved.
- (b) If a proposed project improves property entirely within a city, a petition must originate from the governing body of the city.
- (c) For a signature on a project petition, holders of easements for electric or telephone transmission or distribution lines are not considered owners.

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Subd. 3. **Petitioner deposit or bond.**

(a) When a project petition is filed and before the managers take action on the project petition, one or more of the petitioners must deposit at least \$2,000 with the managers. The deposit must be conditioned to pay all costs and expenses incurred if the project petitioned for is not constructed.

(b) Alternatively, with the approval of the managers, one or more of the petitioners may make and file a bond payable to the watershed district named in the petition. The bond must be for at least \$2,000 with adequate sureties, subject to the approval of the managers of the watershed district where the bond is filed. The bond must be conditioned to pay all costs and expenses incurred if the proceedings are dismissed or a contract is not entered into to construct the project petitioned for.

(c) If, before a project is established, the petitioner's deposit or bond is insufficient to protect the watershed district from loss from the costs or expenses incurred or to be incurred, the watershed district must require an additional deposit or bond. Further proceedings must be stopped until an adequate deposit or bond is furnished. If the additional deposit or bond is not furnished within a time set by the managers, the proceedings may be dismissed.

(d) In proceedings to establish a project, the expenses incurred before the project is established may not exceed the deposit or the bond furnished by the petitioners. A claim in excess of the amount of the petitioners' deposit or bond may not be audited or paid by the watershed district unless the petitioners file an additional deposit or bond within a time and in an amount directed by the managers.

(e) If a project petition is signed by a county board or governing body of a city, a bond is not required.

Subd. 4. Petitioners may dismiss petition.

The petitioners may dismiss the petition upon payment of costs and expenses.

Subd. 5. Determination.

If the managers determine that a proper project petition has been filed, the proposed project promotes the public interest and welfare, is practicable and conforms with the watershed management plan of the watershed district, the managers must:

- (1) identify the project by name and number; and
- (2) designate an engineer to make surveys, maps, and a report on the proposed project.

103D.707 PROJECTS INITIATED BY MANAGERS.

Subdivision 1. Resolution. ~~FA~~ majority of the members of the board of managers may initiate a project by a resolution finding that the project is identified in the watershed management plan of the watershed district. The resolution will:

- (1) identify the project by name and number;
- (2) identify intended sources of project funding;
- (3) designate an engineer or other qualified professional to make surveys, maps, and a report on the proposed project.

Subd. 2. **Funding.** A project may be funded from one or more sources of funds available to the watershed district including, but not limited to, levy, assessment, water management district charge and external sources. The availability and use of a source of funding will be as specified in applicable law. The finding under subdivision 1 as to intended sources of funding is not binding on the managers. However, the procedures of this chapter must be afforded to property owners affected by any subsequent decision of the managers to expand the use of assessment.

Subd. 3. **Determination of Benefits.** Procedures in this chapter for appointment of appraisers and determination of benefits apply to a project initiated by resolution **of the managers** only if, and to the extent that, a project is to be funded in whole or part by assessment.

103D.711 ENGINEER'S TECHNICAL REPORT.

~~Subdivision 1. **Determination.**~~

~~If the managers determine that a proper project petition has been filed, the proposed project promotes the public interest and welfare, is practicable and conforms with the watershed management plan of the watershed district, the managers must:~~

- ~~(1) identify the project proceeding by name and number; and~~
- ~~(2) designate an engineer to make surveys, maps, and a report on the proposed project.~~

Subd. 2. **Subdivision 1. Requirements.** (a) The engineer's report of the engineer or other qualified professional must include findings and recommendations about the proposed project. If the engineer report finds the project feasible, the engineer or other qualified professional must provide a plan of the proposed project as part of the report. The plan must include:

- (1) a map of the project area, drawn to scale, showing the location of the proposed improvements, if any;
 - (2) the estimated total cost of completing the project including construction, operation, implementation, supervision, and administrative costs;
 - (3) the acreage required as right-of-way listed by each lot and 40-acre tract or fraction of the lot or tract under separate ownership, if required to implement the project; and
 - (4) other details and information to inform the managers of the practicability and necessity of the proposed project with the engineer's recommendations on these matters.
- (b) The map of the area must include:
- (1) the location and adequacy of the outlet, if the project is related to drainage;
 - (2) the watershed of the project area;
 - (3) the location of existing highways, bridges, and culverts;
 - (4) the property, highways, and utilities affected by the project with the names of the known property owners;
 - (5) the location of public land and water affected by the project; and
 - (6) other physical characteristics of the watershed necessary to understand the area.

Subd. 3. **Subd. 2. State and federal projects.** The engineer may adopt, approve, and include as a part of the engineer's technical report may include a project of the state or federal government that is pertinent to the project and may accept data, plats, plans, details, or

information pertaining to the state or federal project given to the ~~engineer~~ watershed district by the state or federal agency. The ~~engineer or other qualified professional~~ shall omit the items required in subdivision ~~2-1~~ from the ~~engineer's technical~~ report if the data given by the state or federal government is sufficient to meet the requirements of subdivision ~~21~~.

~~Subd. 4.~~ **Subd. 3. Hearing after unfavorable ~~engineer's technical~~ report.**

(a) If ~~the project has been initiated by petition, and the engineer's technical report is unfavorable~~, the managers shall, by order, within 35 days set a time and place within the watershed district for a hearing for the petitioners to demonstrate why the managers should not refer the petition back to the petitioners for further proceedings or dismiss the petition.

(b) The hearing notice must state:

(1) that the ~~engineer's technical~~ report is unfavorable;

(2) that the ~~engineer's technical~~ report is on file with the managers and may be reviewed; and

(3) the time and place for the hearing.

(c) The managers shall mail a copy of the notice to each of the petitioners at least 14 days before the hearing.

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~~Subd. 5.~~ **Subd. 4. Advisory reports.** (a) When the ~~engineer's technical~~ report is filed with the managers, the managers shall send a complete copy to the director and to the board.

(b) The director and the board shall examine the ~~engineer's technical~~ report and by 30 days after receiving the report, the director shall make a director's advisory report and the board shall make a board's advisory report which must include:

(1) a statement on whether the ~~engineer's technical~~ report is incomplete and not in accordance with this chapter;

(2) a statement of whether the ~~engineer's technical~~ report is approved as being a practical plan;

(3) if the project as planned does not meet approval, recommendations for changes considered advisable must be stated or an opinion that the proposed project or improvement is not practical; and

(4) a recommendation as to whether a soil survey appears advisable.

(c) The director's advisory report and the board's advisory report shall be directed to and filed with the managers.

(d) The director's advisory report and the board's advisory report shall be considered advisory only.

Subd. 6. Notice for final hearing; timing. A notice may not be issued for the final hearing until the board's advisory report and the director's advisory report are filed or the time for filing the reports with the managers has expired. For projects initiated by the managers pursuant to section 103D.707, the managers may decide at any time not to proceed to final hearing.

Subd. 7. Form. The findings, recommendations, and content of the ~~engineering technical~~ report shall conform as nearly as practicable to the requirements of this section.

Subd. 8. **Soil survey.** If a soil survey is recommended to be made in the director's advisory report or the board's advisory report, the engineer or other qualified professional shall make the soil survey and a soil survey report. The soil survey report must be submitted to the managers before the final hearing.

103D.715 APPRAISERS; DETERMINING BENEFITS AND DAMAGES.

Subdivision 1. Appointment.

After the engineer's report is filed, If the project is proposed to be funded in whole or in part by assessments of benefitted land owners, the managers shall, with the least possible delay, appoint three disinterested resident owners of the state as appraisers.

Subd. 2. Oath.

An appraiser must subscribe to an oath to faithfully and impartially perform the appraiser's duties.

Subd. 3. Duties.

The appraisers shall with or without the engineer determine the benefits and damages to property affected by the proposed project, including property owned by the state or a state agency, highways, and other property likely to be affected by the proposed project or that may be used or taken for construction, implementation, or maintenance.

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Subd. 4. Benefits and damages to state land.

For all watershed district projects, benefits and damages to property owned by the state or a state agency, held and used for the purposes described in sections [103E.025](#) and [103E.315, subdivision 1](#), must be determined using the procedure provided in sections [103E.025](#) and [103E.315, subdivision 1](#). If a state permit is required from the commissioner to construct the project, state land may not be taken, damaged, or benefitted until the permit is issued.

Subd. 5. Compensation.

An appraiser may be paid on a per diem basis for each day the appraiser is necessarily engaged in the performance of duties and for actual and necessary expenses. The compensation shall be set by the managers, paid by the watershed district, and included in the cost of the project.

103D.725 BENEFITED PROPERTY; DETERMINATION.

~~Subdivision 1. Appraiser standards.~~

~~If the proposed project includes the construction or improvement of a ditch, stream, river, or watercourse, or structures for the control or alleviation of damages from floodwaters, the appraisers shall be governed by sections [103E.311](#) to [103E.321](#).~~

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~~Subd. 2. Determining benefits.~~

In proceedings under this chapter, assessments for benefits shall be made based on the benefits to the property because of the project affecting the property. Benefited property must include:

- (1) all property, including property owned by the state or a political subdivision receiving direct benefits, including assessments for drainage, recreation, commercial navigation, disposal of sewage or waste material, bank stabilization, flood control, land reclamation, prevention of siltation, control of erosion, and maintenance of lake levels;
- (2) all property that is contributing water or is furnished an improved drainage outlet and all property that contributes waters that are stored, handled, or controlled by the proposed project;
- (3) all property that is not receiving but needs drainage and that is furnishing waters handled or controlled by the proposed project;
- (4) benefits to the state by reason of the improvement of lakes, streams, or other bodies of water as a place for propagation, protection, and preservation of fish and other forms of wildlife, that are assessable against the state to the extent and in the manner provided in section [84A.55, subdivision 9](#), and within the available appropriation;
- (5) benefits to municipal corporations that occur to the property in the municipality generally and that may be in addition to special benefits to specific property within the municipality; and
- (6) benefits that will result to property used for railway or other utility purposes.

103D.729 WATER MANAGEMENT DISTRICT.

Subdivision 1. Establishment.

A watershed district may establish a water management district or districts in the territory within the watershed, for the purpose of collecting revenues and paying the costs of projects initiated under section 103B.231, ~~103D.601~~, ~~103D.605~~, ~~103D.611~~, ~~103D.701~~, or 103D.730.

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Subd. 2. Procedure.

A watershed district may establish a water management district only by amendment to its plan in accordance with section [103D.411](#), or [103B.231](#) for watershed districts in the metropolitan area, and compliance with subdivisions 3 and 4. The amendment shall describe with particularity the territory or the area to be included in the water management district, the amount of the necessary charges, the methods used to determine charges, and the length of time the water management district will remain in force. After adoption the amendment shall be filed with the county auditor and county recorder of each county affected by the water management district. Charges are to be collected in accordance with section 444.075, subdivision 2a. The water management district may be dissolved by the procedure prescribed for the establishment of the water management district.

Subd. 3. Notification.

The managers shall, ten days prior to a hearing or decision on projects implemented under this section, provide notice to the city, town, or county within the affected area. The city, town, or county receiving notice shall submit to the managers concerns relating to the implementation of the project. The managers shall consider the concerns of the city, town, or county in the decision on the project.

Subd. 4. Resolving disputes.

Unresolved differences between local governments and the managers may be brought before the committee on dispute resolution under section [103B.101, subdivision 10](#). Within 45 days of receiving the request for dispute resolution, the committee must consider the concerns of the local government. The committee has 30 days after meeting to issue a recommendation to the board for final decision.

(b) After the appraisers' report is filed, the managers shall examine the report and determine whether:

- ~~(1) the report was made in conformity with the requirements of this chapter; and~~
- ~~(2) the total benefits are greater than the total estimated costs and damages.~~

(c) If the managers determine the appraisers' report is inadequate in any manner, the managers may return the report to the appraisers for further study and report.

103D.745 FINAL HEARING.

Subdivision 1. Hearing.

(a) At the time and place specified in the final hearing notice, the managers must hear all parties interested for and against the establishment of the proposed project and confirm the engineer's report and the appraisers' report.

(b) Questions about the proposed project including jurisdiction, sufficiency of the petition or resolution, practicability, and necessity shall be determined by evidence presented at the hearing. Findings made by the managers before the final hearing are not conclusive but are subject to further investigation, consideration, and determination at the final hearing.

Subd. 2. Modifying reports.

(a) The managers may order and direct the modification of:

- (1) the engineer's report within the scope of the watershed management plan for the watershed district;
- (2) the assessment of benefits and damages; and
- (3) amendment or change of the list of property reported as assessable for construction or implementation and maintenance.

(b) If the amended engineer's report and appraisers' report includes property not included in the original reports, the managers shall adjourn the hearing and have an amended notice published and mailed with the proper reference to all property as amended by the managers.

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Subd. 3. Establishing project.

(a) The managers shall make findings, order and direct construction or implementation of the project, and confirm the engineer's report and the findings of the appraisers and the appraisers' report if, at the end of the final hearing, the managers find that the project will:

- (1) be conducive to public health;
- (2) promote the general welfare;
- (3) be in compliance with this chapter; and

(4) ~~for each property to be assessed, result in benefits that will be greater than the cost of the construction or implementation and damages to be assessed.~~

(b) The order may authorize the construction or implementation of the project as a whole or authorize different parts of the project to be constructed separately.

(c) The managers shall order the engineer to proceed with making the necessary surveys and preparing plans and specifications that are needed to construct the project and report the results of the surveys and plans to the managers.

Subd. 4. Recess until awarding contract.

The final hearing shall be recessed until the engineer's report and the bids are received. The hearing may be recessed to allow compliance with section [103D.801](#) if it becomes applicable.