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## WATERSHED DISTRICTS

The following is a summary of how watershed districts are created and operated within the State of Kansas – including their purpose, powers, and taxing authority. Also included is a synopsis of how watershed districts operate within Missouri, Nebraska, Iowa, and Colorado.

### Background

In 1953 Kansas enacted the Watershed District Act, K.S.A §§24-1201 *et seq.*, in recognition of serious water management problems resulting from erosion, floodwater or sediment damages, and instability of natural water supplies that were occurring in the watersheds of the rivers and streams of the State of Kansas. The purpose of the Watershed District Act was and is to alleviate the damages being caused by the mismanagement of water, as well as to further the conservation, development, utilization and disposal of water in order to preserve and protect the state's land and water resources. To accomplish this goal, the Legislature created the means for watershed districts to be formed and tasked them with the responsibility of developing a comprehensive plan to provide flood protection for the watershed, as well as to construct, operate and maintain works of improvement to assist in water management.

Currently in Kansas there are eighty-eight watershed districts totaling approximately thirty-five percent of Kansas' total landmass. A natural watershed includes all the land area that drains to a particular water resource – whether that be a stream, lake, or depression. The watershed districts are built around these natural watersheds and must be comprised of at least one watershed, or two or more adjoining watersheds. (See the attached map.)

### Organizing and Creating a Watershed District

The process for creating a watershed district in a particular area begins when local residents file a petition with the Secretary of State containing the signatures of not less than twenty percent of the landowners and twenty-five percent of the acreage within the proposed district. A board of county commissioners also may adopt a resolution proposing the establishment of a watershed district within their county, but only if the lands within each proposed district are comprised substantially of a watershed, or two or more adjoining watersheds, and in the preceding five year period the governor issued a proclamation declaring a state of disaster within the county due to flooding. If these two requirements are met, the board of county commissioners may pass a resolution creating a steering committee to look into organizing and creating a watershed district within the county. This steering committee then operates in the same manner as the steering committee created by private landowners. The

steering committee files a petition with the Secretary of State asking for incorporation as a watershed district. An example of the petition to be filed and its requirements can be found at [K.S.A. §24-1204](#).

After the petition has been filed with the Secretary of State and is found to be sufficient, it is then sent to the Chief Engineer of the Department of Agriculture, Division of Water Resources. It is the duty of the Chief Engineer to investigate the proposed district and to issue a written report either approving or disapproving the proposed district within ninety days. The Chief Engineer should approve the proposed district if he/she makes the following findings:

- The proposed watershed district is comprised substantially of a watershed or two or more adjoining watersheds;
- Each proposed district would not include lands in an existing watershed district;
- The statement of purposes in the petition conforms with the intent and purpose of the Watershed District Act;
- The lands within each proposed district are subject to erosion, floodwater or sediment damage, or would be benefited by the construction of works for the conservation, development, utilization, or disposal of water;
- The boundary of each proposed district is defined to include all quarter-quarter sections (40 acres) of which more than one half of each is within the watershed;
- The downstream limit of each proposed district is established with regard to:
  - Location of highways and railroads;
  - Location and character of existing works of improvement;
  - Boundaries of any organized levee, drainage, irrigation and watershed districts; and
  - Physical characteristics and the probable effect of the proposed district on any flood plain area common to multiple streams or water courses; and
- An adequate and correct map and description of land is attached to the petition.

Upon receiving a favorable report from the Chief Engineer, the steering committee elects a board of directors. It is then the responsibility of the board of directors to organize an election for the purpose of posing before all qualified voters within the proposed district the question of whether the watershed district should be organized. Qualified voters include any qualified elector of the proposed district, as well as any person over eighteen who owns land within the proposed district but who does not reside within the proposed district. If the election results come back in favor of organizing a watershed district, the Secretary of State issues to the board of directors a certificate of incorporation and the board becomes authorized to function in accordance with the provisions of the Watershed District Act and its certificate of incorporation.

## General Powers and Duties

Once incorporated, the watershed district becomes an organization that is governed through its board of directors. The board must be comprised of an odd number of directors, numbering anywhere between three and fifteen. Each director serves a term of three years, without compensation, but is allowed actual and necessary expenses incurred when acting in an official capacity. The board of directors statutorily are given the power to:

- Adopt a seal;
- Sue and be sued by its corporate name;
- Purchase, hold, sell and convey land and personal property;
- Execute any contracts needed to carry out the purposes of the watershed district;
- Construct, improve, maintain and operate works of improvement – including facilities necessary for the conservation of soil, prevention of floods, disposal of water, and the conservation, development and utilization of water for domestic municipal, agricultural, industrial, recreational, and other beneficial uses;
- Acquire land for the purpose of restoring wildlife habitat when improvements cause substantial displacement of wildlife habitat and when required by the Natural Resource Conservation Service of the United States Department of Agriculture. The power of eminent domain may not be used for such acquisitions;
- Operate or lease district properties and facilities associated with the use of water and collect reasonable fees for their use;
- Employ professional services;
- Acquire personal property by gift or purchase;
- Levy taxes and assessments, issue bonds and incur indebtedness within the limitations prescribed by the Act;
- Cooperate and contract with persons, firms, associations, private corporations, other watershed districts and cities located in or out of state, as well as state and federal government agencies for the purpose of cooperative contracts and agreements;
- Extend and transfer the territory of the district, receive territory transferred from other districts, and merge with other districts after a vote of approval within each district; and
- Select a residence or home office for the watershed district, the location of which serves as the official filing county for all documents associated with the watershed district.

## **Watershed Projects and Funding**

Upon incorporation, the board of directors creates a general plan for the watershed district which includes an estimate of costs as to installation, maintenance, and operation of proposed works, as well as specifics as to their location and the areas to be benefited by their construction. Once created, the general plan is then submitted to the Chief Engineer for a study in feasibility, coordination of the plan with other general plans, safety, and conformity with the purposes of the Watershed District Act.

Once the general plan is approved, the board of directors must then develop a resolution stating how it will pay for the proposed works. To do this, the board may propose a general levy against all of the taxable tangible property located within the district, a special assessment against lands within the district to be specially benefited by any of the proposed projects, or a combination of both. The board may also in its resolution decide to issue "improvement bonds" in order to pay for the proposed works in installments. The issuing of bonds would require a special election by the qualified voters of the watershed district. In addition to the authority to raise money for improvements, each watershed district is annually allowed to levy a general mill tax, not to exceed two mills, to be used as a general fund for the district's daily operations. Upon providing adequate notice, the board of directors may pass a resolution to increase the mill levy tax.

Much of the funding for proposed works comes through federal funding available through the Natural Resources Conservation Service of the United States Department of Agriculture. Through Public Law 566, the federal government can provide up to seventy-five percent of the costs associated with new construction or rehabilitation.

## **WATERSHED DISTRICTS IN OTHER STATES**

### **Missouri**

#### ***Purpose***

To carry out watershed protection and flood prevention programs, to prevent floodwater and sediment damage and for furthering the conservation, development, utilization and disposal of water.

#### ***Organization***

To form a watershed district, the landowners must file a petition signed by the owners of fifty percent of the lands with the board of soil and water conservation district supervisors requesting a hearing and a referendum. If the district is determined to be favorable by the board, a referendum by ballot of landowners must be conducted and sixty-five percent must vote in favor. Five owners are elected by landowners to serve as trustees, and act in all matters pertaining to the district except those concerning formation, consolidation, expansion or disestablishment of the district.

Petitions for consolidating two or more watershed districts may be filed with the supervisors of the soil and water conservation district, and can be carried out if sixty-five percent percent of landowners vote in favor.

After a watershed district has been organized for more than five years and does not have any outstanding bonds, has not constructed or contracted to construct any works of improvement, nor incurred any continuing obligations, fifty percent of the landowners may petition the governing body of the watershed district to call and conduct a referendum on disestablishing the district. If sixty-five percent vote in favor it is disestablished.

### ***Powers***

The trustees have the authority to acquire lands needed for improvement projects; construct, repair, operate or improve any works; borrow money for carrying out these projects; and levy an annual tax.

The districts have the right to cooperate with the federal government in the program outlined in Public Law 566.

### ***Financing***

To provide needed funds for the construction of new works, maintenance, improvement, or operation, the trustees may levy an annual tax on the property within the district, which is not to exceed forty cents per one hundred dollars.

## **Nebraska**

### ***Purpose***

To conserve, protect, develop, and manage the natural resources for the health and welfare of the people of Nebraska.

### ***Organization***

The functions performed by soil and water conservation districts, watershed conservancy districts, watershed districts, advisory watershed improvement boards, and watershed planning boards have been consolidated into natural resources districts (NRD). The entire state has been divided into NRDs along boundaries following approximate hydrological patterns.

### ***Powers***

The Erosion and Sediment Control Act established that any municipality or county may adopt rules and regulations governing erosion and sediment control within their respective jurisdictions. Any county in Nebraska is authorized to construct works for flood control, watershed protection and flood prevention in cooperation with the NRD. These counties may enter into agreements with other county governments on cooperative programs and establish

watershed boundary lines for taxation purposes and that property within the boundary will be assessed for the financing of the works of improvement.

### ***Financing***

Construction costs and expenses in excess of the amounts paid by the federal government, or to acquire any lands, are funded by issuing general obligation bonds of the county. To pay bond obligations, that county board must make an annual levy on all the taxable property in the county. To maintain and operate flood control works the county board may make an annual tax levy that does not exceed one and seven-tenths cents on each hundred dollars of taxable property value. The governing body of any city also has the power to enter into undertakings and make agreements for flood control purposes, which can also be funded by general obligation bonds, and to maintain and operate flood control works, for which an annual tax can be levied, not to exceed five and two-tenths cents on every hundred dollars of property value can be levied.

The Nebraska Small Watersheds Flood Control Fund was established in 1963 to provide state financial assistance for the acquisition of the necessary land rights for flood control structures. It is primarily used to leverage federal funds on projects where the construction costs are reimbursed by the federal government and the local sponsor must provide the necessary land rights. When land is purchased for a project it must be sold within ten years with proceeds of the sale being returned to the fund for reuse. The primary source of funding for this program comes from sales of fee title property following completion of projects for which the property was acquired.

## **Iowa**

### ***Purpose***

To ensure the long-term protection of the soil and water resources of the state, and to encourage the development of farm management and agricultural practices that are consistent with the capability of the land to sustain agriculture, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist and maintain the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and promote the health, safety and public welfare of the people.

### ***Organization***

Sub-districts of a soil and water conservation district can be formed to carry out watershed protection and flood prevention programs. The landowners of a proposed sub-district may file a petition with the commissioners of the district that must be signed by sixty-five percent of the landowners. Land already in one sub-district cannot be included in another. If the proposed district is deemed desirable and practicable by the commissioners after holding a public hearing then the sub-district is organized. The commissioners of the soil and water conservation district in which the sub-district is formed are the governing body of the sub-district, who must appoint three local trustees to assist in the administration.

At any time after five years of existence, any twenty-five owners of land within the sub-district, but no less than twenty percent of owners, may file a petition with the soil and water

conservation committee to terminate the district. After public hearings a referendum will be held, and if sixty-five percent of landowners vote to terminate, the district will be discontinued.

### ***Powers***

Sub-districts have all of the powers of a soil and water conservation district. This includes conducting research into soil erosion and floodwater damages, conducting projects to demonstrate soil conservation measures, carrying out preventive and control measures within the sub-district, entering into agreements with an agency or another sub-district, acquiring and selling property, supplying local landowners with needed equipment and supplies, constructing and maintaining works of improvement, suing and being sued in the name of the district, and making and executing contracts necessary to the exercise of its powers.

After obtaining agreement from not less than the owners of fifty percent of the lands in the sub-district, a special annual tax may be imposed to pay for actual and necessary expenses incurred to organize the sub-district; to acquire land or rights; and to repair, maintain and operate the works of improvement within the boundaries.

### ***Financing***

Each year the governing body of the sub-district must make an estimate of the amount deemed necessary to be raised by the special tax for that year and transmit this to the board of supervisors of the county or counties in which the sub-district lies. The county board must then make the necessary levy on the assessed valuation of all real estate within the sub-district to raise the needed amounts, but not to exceed one dollar and eight cents per thousand dollars of assessed value. Proceeds from the taxes are placed into a fund for use by the governing body of the sub-district. In lieu of collecting the special tax, and upon approval of the state soil conservation committee, the sub-district may issue warrants or bonds to provide funds for the sub-district's works of improvement.

## **Colorado**

### ***Purpose***

To reclaim by drainage, lands which are not at present cultivatable or useful, so they will become conducive to the public health, convenience, utility, or welfare.

### ***Organization***

Owners of agricultural lands susceptible to drainage by the general system of works may propose the organization of a drainage district by presenting to the board of county commissioners of the county where the larger portion of said lands lie, a petition giving the name of the proposed district and asking that the board of county commissioners cause the question to be put to a vote by the owners of the lands laying within the boundaries of the proposed district.

## ***Powers***

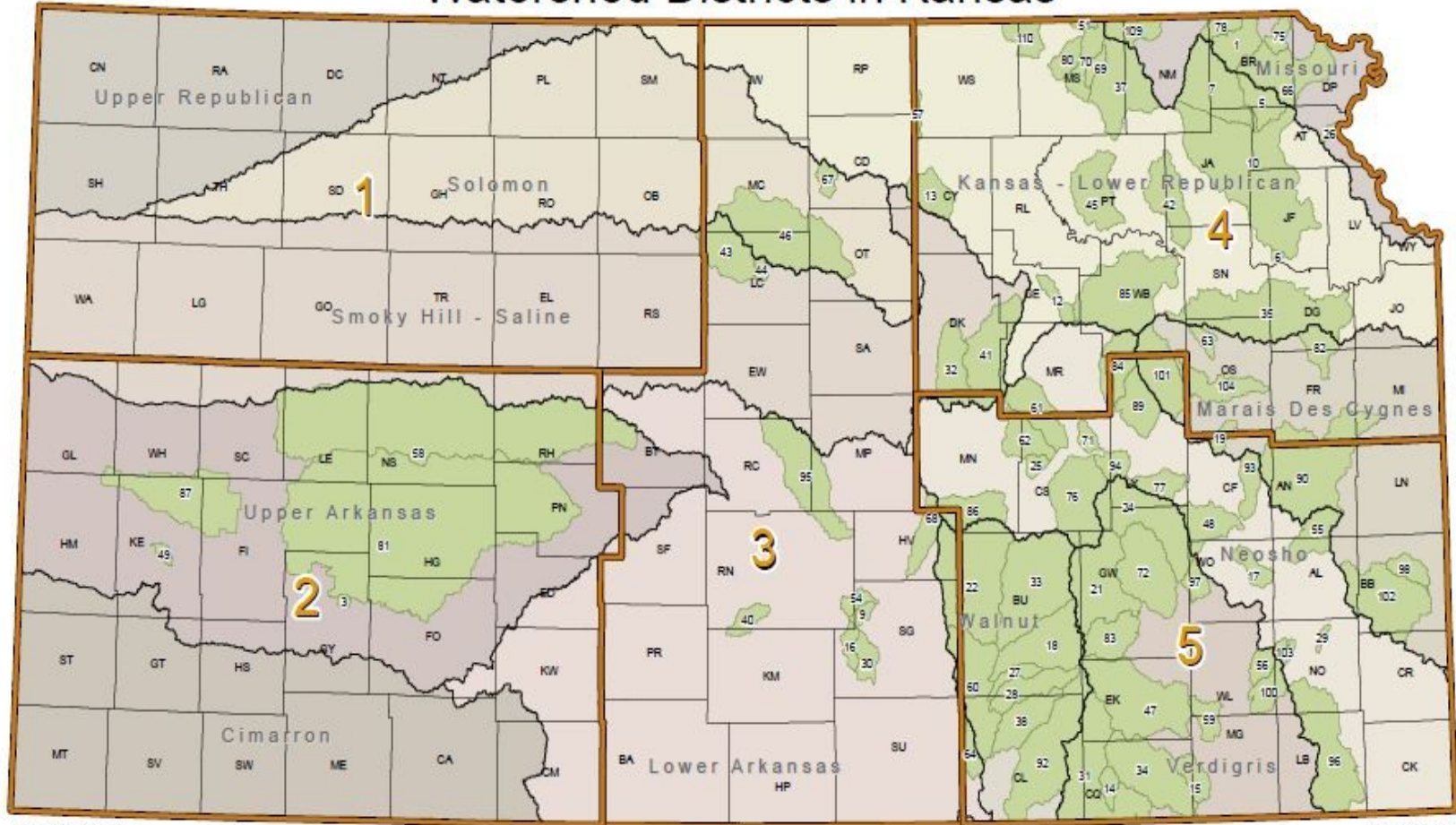
The board of directors is vested with all powers necessary to accomplish the purposes for which the district was organized including the power to optimize drainage and recharge of water within the district. Any enumeration of a specific power does not limit the breadth of the board's general power. The board of directors is specifically authorized to take conveyances or assurances in the name of a drainage district for all property acquired; to institute and maintain actions, proceedings, and suits necessary or proper to fully carry out their duties. The board of directors is authorized to hold, use, and manage property acquired, the title of which shall vest in the corporate name of the drainage districts. The board of directors also has the power to construct works across any watercourse, street, avenue, highway, railway, canal or ditch which the route of such drainage system or any branch thereof intersects or crosses. If a price cannot be agreed upon, then the formula used for the taking of public land for public uses by the right of eminent domain is given to the board of directors.

## ***Financing***

The drainage districts in Colorado can either levy a local assessment or issue bonds to pay for projects within the district. For a special assessment, the board of directors divides up the land within the district by the amount of benefits that it is likely to receive. The special assessment tax is then apportioned and levied on each tract of land in proportion to the benefits assessed. The board of directors does not have a general taxing power. For the issuing of bonds, the board of directors determine how much money is needed to complete the project and then call a special election to determine whether the bonds are to be issued.



# Watershed Districts in Kansas



Kansas Water Office

October 2005

**Legend**

-  Watershed District
-  SCC Area
-  County

ID	NAME	ID	NAME	ID	NAME	ID	NAME	ID	NAME	ID	NAME	ID	NAME
1	Walnut Creek	16	Spring Creek	29	Pecan Creek	42	Cross Creek	55	Cedar Creek	68	Sand Creek	82	Tauy Creek
3	Cimarron	17	Cherry-Plum Creek	30	Clear Creek	43	Spillman Creek	57	Dry Creek	69	Snipe Creek	83	Otter Creek
5	Little Delaware-Mission Creeks	18	Little Walnut-Hickory	31	Big Caney	44	Lost Creek	58	Wet Walnut	70	Vermilion Creek	84	Rock Creek
6	Thompsonville	19	Frog Creek	32	Turkey Creek	45	Rock Creek	59	Duck Creek	71	Peyton Creek	85	Mill Creek
7	Nemaha-Brown	21	Fall River	33	Upper Walnut River	46	Salt Creek	60	Middle Walnut River	72	Walnut-West	86	Doyle Creek
9	Andale	22	Whitewater River	34	Twin Caney	47	Elk River	61	Diamond Creek	75	Roys Creek	87	James Draw
10	Delaware	24	Upper Verdigris	35	Wakarusa	48	Big Creek	62	Middle Creek	76	South Fork	89	Allen Creek
12	Humboldt	25	Silver Creek	37	Upper Black Vermilion	49	Lakin	63	Switzler Creek	77	Eagle Creek	90	Pottawatomie Creek
13	Five Creeks	26	White Clay-Brewery Creeks	38	Timber Creek	51	Mission Creek	64	Ark-River Tributaries	78	Fony Creek	92	Grouse-Silver Creek
14	Grant-Shanghal	27	Muddy Creek	40	Goose Creek	54	Mount Hope	66	Wolf River	80	Spring Creek	93	Long-Scott Creek
15	Bee Creek	28	Rock Creek	41	Lyons Creek	55	Deer Creek	67	Fisher & Criss Creeks	81	Pawnee	94	Jacobs-Pheis Creek
												101	Upper Marais des Cygnes
												102	Upper Marmaton
												103	Turkey Creek
												104	Salt Creek
												109	Turkey Creek
												110	Horseshoe Creek