

Effective 5/13/2014

17B-2a-1005 Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

- (1) Members of the board of trustees for a water conservancy district shall be:
 - (a) elected in accordance with:
 - (i) the petition or resolution that initiated the process of creating the water conservancy district;
and
 - (ii) Section 17B-1-306;
 - (b) appointed in accordance with Subsection (2); or
 - (c) elected under Subsection (4)(a).
- (2)
 - (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).
 - (b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.
 - (c)
 - (i) For a district located in more than a single county, the governor, with the consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).
 - (ii)
 - (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.
 - (B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.
 - (iii)
 - (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.
 - (B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.
 - (iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.
 - (v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.
 - (d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.
- (3)
 - (a) The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts:

- (i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and
 - (ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.
- (b)
- (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).
 - (ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.
 - (iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.
 - (iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the consent of the Senate.
- (c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.
- (4)
- (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):
 - (i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and
 - (ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.
 - (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.
- (5) The board of trustees of a water conservancy district shall consist of:
- (a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or
 - (b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.
- (6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.
- (7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.
- (8)
- (a) The board of trustees of a water conservancy district may:
 - (i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;
 - (ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;
 - (iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;
 - (iv) allocate and reallocate the use of water to lands within the district;

- (v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;
 - (vi) create a lien, as provided in this part, upon land to which the use of water is transferred;
 - (vii) discharge a lien from land to which a lien has attached; and
 - (viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.
- (b)
- (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.
 - (ii)
 - (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.
 - (B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Amended by Chapter 377, 2014 General Session