

**Effective 5/8/2018**

**Superseded 5/5/2021**

**17B-2a-1007 Contract assessments.**

(1) As used in this section:

(a) "Assessed land" means:

- (i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or
- (ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

- (i) for a county, city, or town, the legislative body of the county, city, or town;
- (ii) for a local district, the board of trustees of the local district;
- (iii) for a special service district:
  - (A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
  - (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and
- (iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

- (i) whose territory is partly or entirely within the boundaries of a water conservancy district; and
- (ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

- (i) whose territory is partly or entirely within the boundaries of a water conservancy district; and
- (ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

- (i) land owned by the private water user; or
- (ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3)

(a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

- (b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.
- (c) Each petition under this Subsection (3) shall include:
  - (i) the petitioner's name;
  - (ii) the quantity of water the petitioner desires to purchase or otherwise acquire;
  - (iii) a description of the land upon which the water will be used;
  - (iv) the price to be paid for the water;
  - (v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;
  - (vi) whether payment will be made in cash or annual installments;
  - (vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and
  - (viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.
- (4)
  - (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:
    - (i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and
    - (ii) hold a public hearing on the petition.
  - (b) Each notice under Subsection (4)(a)(i) shall:
    - (i) state that a petition has been filed and that the district is considering levying a contract assessment; and
    - (ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).
  - (c)
    - (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:
      - (A) allow any interested person to appear and explain why the petition should not be granted; and
      - (B) consider each written objection to the granting of the petition that the board receives before or at the hearing.
    - (ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.
  - (d)
    - (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.
    - (ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.
- (5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:
  - (a) deny the petition; or
  - (b) grant the petition, if the board considers granting the petition to be in the best interests of the district.
- (6) The board of a water conservancy district that grants a petition under this section may:
  - (a) make an allotment of water for the benefit of assessed land;

- (b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;
  - (c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and
  - (d) levy a contract assessment on assessed land.
- (7)
- (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:
    - (i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and
    - (ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.
  - (b) Upon the recording of the resolution, ordinance, or order, in accordance with Subsection (7)(a)(i):
    - (i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a political subdivision lien, as that term is defined in Section 11-60-102, on the assessed land, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and
    - (ii)
      - (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and
      - (B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.
  - (c)
    - (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.
    - (ii) If the amount of a contract assessment levied under this section is not paid in full in a given year:
      - (A) by September 15, the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and
      - (B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.
- (8)
- (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:
    - (i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and
    - (ii) twice publish a notice, at least a week apart:
      - (A) in a newspaper of general circulation in each county with assessed land included within the district boundaries or, if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county; and
      - (B) that contains a general description of the assessed land, the amount of the contract assessment, and the time and place of the public hearing under Subsection (8)(a)(i).
  - (b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the

hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c)

- (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.
- (ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:
  - (A) shall enter a written order, stating its decision; and
  - (B) may modify the assessment.

(d)

- (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).
  - (ii) Each petition under Subsection (8)(d)(i) shall:
    - (A) be filed within 30 days after the board enters its written order;
    - (B) state specifically the part of the board's order for which review is sought; and
    - (C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.
  - (iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.
  - (iv) The court shall act as quickly as possible after a petition is filed.
  - (v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.
- (e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.
- (9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.
- (10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.