

# The WID Law

Code Of Virginia: § 10.1 - 614 To 635

As of October 21,2011

## **§ 10.1-614. Establishment within soil and water conservation district authorized.**

Whenever it is found that soil and water conservation or water management within a soil and water conservation district or districts will be promoted by the construction of improvements to check erosion, provide drainage, collect sediment or stabilize the runoff of surface water, a small watershed improvement district may be established within such soil and water conservation district or districts in accordance with the provisions of this article.

(1956, c. 668, § 21-112.1; 1964, c. 512; 1973, c. 35; 1977, c. 40; 1988, c. 891.)

## **§ 10.1-615. Petition for establishment; what to set forth.**

A. Any twenty-five owners of land lying within the limits of a proposed watershed improvement district, or a majority of such owners if there are fewer than fifty, may file a petition with the directors of the soil and water conservation district or districts in which the proposed watershed improvement district is situated asking that a watershed improvement district be organized to function in the territory described in the petition. The petition shall set forth:

1. The proposed name of the watershed improvement district;
2. That there is need, in the interest of the public health, safety, and welfare, for a watershed improvement district to function in the territory described in the petition;
3. A description of the territory proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate;
4. That the territory described in the petition is contiguous and is the same watershed, or is two or more contiguous watersheds;
5. A request that the territory described in the petition be organized as a watershed improvement district;
6. The method for financing the proposed district, whether by means of a tax on all real estate in the proposed district or a service charge on the increase in the fair market value of all real estate in the proposed district caused by the district's project.

B. Land lying within the limits of one watershed improvement district shall not be included in another watershed improvement district.

(1956, c. 668, § 21-112.2; 1964, c. 512; 1970, c. 480; 1977, c. 40; 1981, c. 156; 1988, c. 891.)

## **§ 10.1-616. Notice and hearing on petition; determination of need for district and defining boundaries.**

Within thirty days after a petition has been filed with the directors of the soil and water conservation district or districts, they shall cause due notice to be given of a hearing upon the

practicability and feasibility of creating the proposed watershed improvement district. All owners of land within the proposed watershed improvement district and all other interested parties shall have the right to attend such a hearing and to be heard. If the directors determine from the hearing that there is need, in the interest of the public health, safety, and welfare, for the organization of the proposed watershed improvement district, they shall record their determination and define the boundaries of the watershed improvement district. The provisions of Article 2 (§ 10.1-502 et seq.) of Chapter 5 of this title shall apply, mutatis mutandis, to such proceedings.

(1956, c. 668, § 21-112.3; 1964, c. 512; 1970, c. 480; 1988, c. 891.)

**§ 10.1-617. Determination of whether operation of proposed district is feasible; referendum.**

If the district directors determine that a need for the proposed watershed improvement district exists and after they define the boundaries of the proposed district, they shall consider the administrative feasibility of operating the proposed watershed improvement district. To assist the district directors in determining such question, a referendum shall be held upon the proposition of the creation of the proposed watershed improvement district. Due notice of the referendum shall be given by the district directors. All owners of land lying within the boundaries of the proposed watershed improvement district shall be eligible to vote in the referendum. The district directors may prescribe necessary regulations governing the conduct of the hearing.

(1956, c. 668, § 21-112.4; 1964, c. 512; 1970, c. 480; 1988, c. 891; 1995, c. 654.)

**§ 10.1-618. Ballots used in such referendum.**

The question shall be submitted by ballots, which shall contain the following question: "Shall a watershed improvement district be created of the lands described below and lying in the county(ies) or city(ies) of . . . . . and . . . . .?"

Yes

No"

The ballot shall set forth the boundaries of the proposed district determined by the Board.

The ballot shall also set forth the method or methods of real estate assessment as determined by the district directors.

(1956, c. 668, § 21-112.5; 1970, c. 480, § 21-112.4:1; 1977, c. 40; 1988, c. 891.)

**§ 10.1-619. Consideration of results of referendum; simple majority vote required.**

The results of the referendum shall be considered by the district directors in determining whether the operation of the proposed watershed improvement district is administratively practicable and feasible. The district directors shall not be authorized to determine that operation of the proposed watershed improvement district is administratively practicable and feasible unless a simple majority of the votes cast in the referendum have been cast in favor of the creation of the watershed improvement district.

(1956, c. 668, § 21-112.5; 1970, c. 480; 1977, c. 40; 1988, c. 891; 2005, c. 128.)

**§ 10.1-620. Declaration of organization of district; certification to Board.**

If the district directors determine that operation of the proposed watershed improvement district is administratively practicable and feasible, they shall declare the watershed improvement district to be organized and shall record the fact in their official minutes. Following such entry in their official minutes, the district directors shall certify the fact of the organization of the watershed improvement district to the Virginia Soil and Water Conservation Board, and shall furnish a copy of the certification to the clerk of each county or city in which any portion of the watershed improvement district is situated for recordation in the public land records of each such county or city. The watershed improvement district shall thereupon constitute a political subdivision of this Commonwealth.

(1956, c. 668, § 21-112.6; 1964, c. 512; 1970, c. 480; 1988, c. 891.)

**§ 10.1-621. Establishment of watershed improvement district situated in more than one soil and water conservation district.**

If a proposed watershed improvement district is situated in more than one soil and water conservation district, copies of the petition shall be presented to the directors of all the soil and water conservation districts in which the proposed watershed improvement district is situated, and the directors of all affected soil and water conservation districts shall act jointly as a board of directors with respect to all matters concerning the watershed improvement district, including its organization. The watershed improvement district shall be organized in the same manner and shall have the same powers and duties as a watershed improvement district situated entirely in one soil and water conservation district.

(1956, c. 668, § 21-112.7; 1964, c. 512; 1970, c. 480; 1988, c. 891.)

**§ 10.1-622. Inclusion of additional territory.**

Petitions for including additional territory within an existing watershed improvement district may be filed with directors of the soil and water conservation district or districts in which the watershed improvement district is situated, and in such cases the provisions hereof for petitions to organize the watershed improvement district shall be observed to the extent deemed practicable by the district directors. In referenda upon petitions for such inclusion, all owners of land situated in the proposed additional territory shall be eligible to vote. No additional territory shall be included in an existing watershed improvement district unless owners of land representing two-thirds of the acreage proposed to be included vote in favor thereof.

(1956, c. 668, § 21-112.8; 1964, c. 512; 1970, c. 480; 1988, c. 891.)

**§ 10.1-623. Governing body of district; trustees.**

The directors of the soil and water conservation district or districts in which the watershed improvement district is situated shall be the governing body of the watershed improvement district. They may appoint, in consultation with and subject to the approval of the Virginia Soil and Water Conservation Board, three trustees who shall be owners of land within the watershed improvement district. The trustees shall exercise the administrative duties and powers delegated to them by the directors of the soil and water conservation district or districts. The trustees shall hold office at the will of the directors of the soil and water conservation district or districts and the Virginia Soil and Water Conservation Board. The

trustees shall designate a chairman and may change such designation. One of the trustees may be selected as treasurer and shall be responsible for the safekeeping of the funds of the watershed improvement district. When a watershed improvement district lies in more than one soil and water conservation district, the directors of all such districts shall act jointly as the governing body of the watershed improvement district.

(1956, c. 668, § 21-112.9; 1964, c. 512; 1970, c. 480; 1988, c. 891.)

**§ 10.1-624. Officers, agents and employees; surety bonds; annual audit.**

The trustees may, with the approval of the directors of the soil and water conservation district or districts, employ such officers, agents, and other employees as they require, and shall determine their qualifications, duties and compensation. The district directors shall provide for the execution of surety bonds for the treasurer and such other trustees, officers, agents, and employees as shall be entrusted with funds or property of the watershed improvement district, and shall publish an annual audit of the accounts of receipts and disbursements of the watershed improvement district.

(1956, c. 668, § 21-112.10; 1964, c. 512; 1970, c. 480; 1988, c. 891.)

**§ 10.1-625. Status and general powers of district; power to levy tax or service charge; approval of landowners required.**

A watershed improvement district shall have all of the powers of the soil and water conservation district or districts in which the watershed improvement district is situated, and in addition shall have the authority to levy and collect a tax or service charge to be used for the purposes for which the watershed improvement district was created. No tax shall be levied nor service charge imposed under this article unless two-thirds of the owners of land, which two-thirds owners shall also represent ownership of at least two-thirds of the land area in such district, voting in a referendum called and held in the manner prescribed in this article, approve the levy of a tax to be expended for the purposes of the watershed improvement district.

(1956, c. 668, § 21-112.11; 1964, c. 512; 1981, c. 156; 1988, c. 891; 1995, c. 654.)

**§ 10.1-626. Levy of tax or service charge; when district in two or more counties or cities; landbooks certified to treasurers.**

- A. On or before March 1 of each year, the trustees of the watershed improvement district shall make an estimate of the amount of money they deem necessary to be raised for the year in such district (i) for operating expenses and interest payments and (ii) for amortization of debt, and, after approval by the directors of the soil and water conservation district or districts, and the Virginia Soil and Water Conservation Board, shall establish the tax rate or service charge rate necessary to raise such amount of money. The tax rate or service charge rate to be applied against the amount determined under subsection C or D of this section shall be determined before the date fixed by law for the determination of the general levy by the governing body of the counties or cities in which the district is situated.
- B. The trustees of a watershed improvement district which imposes a tax on real estate or a service charge based on the increase in the fair market value of real estate caused by the district's project shall make up a landbook of all properties subject to the watershed improvement district tax or service charge on forms similar to those used by the county or

city affected.

A separate landbook shall be made for each county or city if the district is located in more than one county or city. The landbook or landbooks of all properties subject to the district tax or the service charge, along with the tax rate or service charge rate fixed by the governing body of the district for that year, shall be certified to the appropriate county or city treasurer or treasurers, and filed in the clerk's office of such locality or localities, by the governing body of the watershed improvement district on or before the day the county or city landbook is required to be so certified. Such landbook or landbooks shall be subject to the same retention requirements as the county or city landbook.

- C. For tax purposes under this article, the assessed valuation of all real estate located in a watershed improvement district shall be the same fair market valuation that appears in the most recent landbook for the county, city, or town wherein the subject property is located. However, in a watershed improvement district which is located in two or more counties or cities and in which there is a disparity of assessed valuations between the counties or cities, the governing body of the watershed improvement district may petition the judge or judges of the circuit courts in which the district is located to appoint one or more persons to assess all of the real estate in the district. The compensation of such person or persons shall be prescribed by the governing body of the district and paid out of the funds of the district.
- D. In districts authorized to impose a service charge, the service charge shall be based on the initial increase in fair market value resulting from a project. In order to determine the initial increase in fair market value, the trustees shall subtract the fair market value of each parcel without the project, as shown in the landbook for the year immediately preceding the year in which the project was begun from the fair market value of the parcel following completion of the project. The fair market value of each parcel with the project shall be determined by the district directors in a reasonable manner. The values so determined shall be the values against which the service charge rate is imposed so long as any bonds remain outstanding, and thereafter unless a change is approved by the district directors. If an additional improvement is made while any bonds are outstanding, the district directors may cause a new increase in fair market values to be computed to reflect such improvement. However, while any bonds are outstanding, such newly computed values shall not be used unless the total new increase in fair market values in the district is equal to or greater than the previously determined increase in fair market values. Within thirty days after determining the increase in fair market value for all real estate in the watershed improvement district resulting from the project, the trustees shall mail a notice of such determination to the owner of record of each parcel in the district.
- E. The assessments and determinations of increase in fair market value made under the provisions of this section may be used only for the watershed improvement district tax or service charge and shall in no way affect any county or city assessment or levies.
- F. Any person, firm, or corporation aggrieved by any determination of increased value made under any provision of this article shall apply in writing to the trustees of the watershed improvement district within sixty days after the mailing of the notice required in subsection D of this section. Such application shall specify the increased value in the opinion of the applicant and the basis for such opinion. The trustees shall rule on all such applications within 120 days after mailing the notice required in subsection D of this section. If any applicant remains aggrieved by the determination of increased value after such a ruling, he

may apply to the circuit court of the county or city wherein the land is situated for a correction of such determination of increased value, within the time limits and following the procedures set out in Article 5 (§ 58.1-3980 et seq.) of Chapter 39 of Title 58.1.

G. The provisions of this section shall not be used to change the method of real estate assessment in any watershed improvement district established prior to January 1, 1976. (1981, c. 156, § 21-112.12:1; 1988, c. 891.)

**§ 10.1-627. Collection of tax or service charge; proceeds kept in special account; expenditures from such account.**

The special tax or service charge levied shall be collected at the same time and in the same manner as county or city taxes with the proceeds therefrom to be kept in a separate account by the county or city treasurer identified by the official name of the watershed improvement district. Expenditures from such account may be made with the approval of the directors of the soil and water conservation district or districts on requisition from the chairman and the treasurer of the board of trustees of the watershed improvement district.

(1956, c. 668, § 21-112.13; 1964, c. 512; 1970, c. 480; 1981, c. 156; 1988, c. 891.)

**§ 10.1-628. Fiscal powers of governing body; may poll landowners on question of incurring indebtedness or issuing bonds.**

The governing body of any watershed improvement district shall have power, subject to the conditions and limitations of this article, to incur indebtedness, borrow funds, and issue bonds of such watershed improvement district. The circuit court of the county or city in which any portion of the watershed improvement district is located, upon the petition of a majority of the members of the governing body of the watershed improvement district, shall order a referendum at any time not less than thirty days from the date of such order, which shall be designated therein, to determine whether the governing body shall incur indebtedness or issue bonds for one or more of the purposes for which the watershed improvement district was created.

The referendum shall be conducted in the manner prescribed by this article for the conduct of other referendums in the watershed improvement districts.

(1956, c. 668, §§ 21-112.14, 21-112.15; 1964, c. 512; 1988, c. 891; 1995, c. 654.)

**§ 10.1-629. Order authorizing governing body to incur indebtedness or issue bonds.**

If the owners of at least two-thirds of the land area in the district vote in the election, and if at least two-thirds of the voters in the election vote in favor of incurring the indebtedness or issuing bonds, the circuit court or courts shall enter an order authorizing the governing body of the watershed improvement district to incur indebtedness or issue bonds for one or more of the purposes for which the district was created.

(1956, c. 668, § 21-112.16; 1988, c. 891.)

**§ 10.1-630. Type of indebtedness incurred or bonds issued.**

The type of indebtedness incurred or bonds issued shall be that adopted by the governing body of the watershed improvement district and approved by the Virginia Soil and Water Conservation Board.

(1956, c. 668, § 21-112.17; 1964, c. 512; 1988, c. 891; 1996, cc. 105, 819.)

**§ 10.1-631. Annual tax for payment of interest or to amortize indebtedness or bonds.**

The governing body of the watershed improvement district shall, if necessary to pay the interest on the indebtedness or bonds or to amortize such indebtedness or bonds, levy an annual tax or service charge in the manner prescribed by § 10.1-626 on all the real estate in the watershed improvement district subject to local taxation, to satisfy such obligations. This tax, irrespective of any approvals required pursuant to § 10.1-614, shall be sufficient to pay interest and to amortize such indebtedness or bonds at the times required.

(1956, c. 668, § 21-112.18; 1973, c. 35; 1981, c. 156; 1988, c. 891; 1996, cc. 105, 819.)

**§ 10.1-632. Powers granted additional to powers of soil and water conservation district; soil and water conservation district to continue to exercise its powers.**

The powers herein granted to watershed improvement districts shall be additional to the powers of the soil and water conservation district or districts in which the watershed improvement district is situated; and the soil and water conservation district or districts shall be authorized, notwithstanding the creation of the watershed improvement district, to continue to exercise their powers within the watershed improvement district.

(1956, c. 668, § 21-112.19; 1964, c. 512; 1988, c. 891.)

**§ 10.1-633. Power to incur debts and accept gifts, etc.; watershed improvement district to have same powers as soil and water conservation district.**

A watershed improvement district shall have power, as set forth in this article, to incur debts and repay them over the period of time and at the rate or rates of interest, not exceeding eight percent, that the lender agrees to. Any watershed improvement district may accept, receive and expend gifts, grants or loans from whatever source received. In addition, they shall have the same powers, to the extent necessary, within the watershed improvement district that the soil and water conservation district or districts in which the same is located exercise or may possess.

(1956, c. 668, § 21-112.20; 1964, c. 512; 1977, c. 40; 1988, c. 891.)

**§ 10.1-634. Question to be submitted to qualified voters; approval required.**

In connection with any referendum held pursuant to the provisions of this article, the directors shall also provide for the submission of the question involved to the qualified voters of the watershed improvement district and any question required to be submitted to referendum hereunder shall only be deemed to be approved, if approved both by vote of the landowners of the district as here above required and by a majority vote of the qualified voters of the district voting in such referendum.

(1973, c. 35, § 21-112.20:1; 1988, c. 891.)

**§ 10.1-634.1. Conduct of referenda.**

- A. Except as provided in subsection B, the referenda authorized or required by this article shall be conducted pursuant to regulations prescribed by the Virginia Soil and Water Conservation Board and not as provided for under § 24.2-684.
- B. Referenda authorized or required by this article prior to the regulations referred to in subsection A becoming effective shall be conducted by the district directors of the soil and water conservation district in which the watershed improvement district is situated pursuant to the provisions of this article as they were effective on January 1, 1995, and Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. The costs of holding referenda under this subsection shall be paid by the requesting landowners.

(1995, c. 654; 1996, c. 983.)

**§ 10.1-635. Power of eminent domain.**

In addition to any other powers conferred on it by law, any watershed improvement district organized under the provisions of this article shall be authorized to acquire by eminent domain any lands, property rights, franchises, rights-of-way, easements or other property deemed necessary or convenient for the efficient operation of the district. Such proceedings shall be in accordance with and subject to the provisions of the laws of the Commonwealth applicable to the exercise of the power of eminent domain in the name of a public service company and subject to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1.

(1958, c. 411, § 21-112.21; 1988, c. 891; 2003, c. 940.)