

The Watershed Associations Act

being

Chapter W-11 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1979, c.81; 1979-80, c.92; 1983-84, c.63; 1989-90, c.5 and 54; 1992, c.A-24.1; 2002, S-35.02; 2005, c.M-36.1 and S-35.03; 2013, c.32; 2015, c.21; and 2018, c.42.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER W-11

An Act respecting Watershed Associations

SHORT TITLE

Short title

- 1 This Act may be cited as *The Watershed Associations Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) **“agency”** means the council of a municipality or the governing body of a corporation or other duly constituted organization, and without limiting the generality of the foregoing includes the board of trustees of an irrigation district, the area authority of a conservation and development area and the board of directors of a water users association;
- (b) **“board”** means the board of directors of a watershed association constituted under this Act;
- (c) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (d) **“project”** means any works proposed or developed under *The Water Rights Act*, *The Water Security Agency Act* or under any Act providing for the improvement, development, utilization or control of water or land resources;
- (e) **“public utility”** means a person who owns, operates, manages or controls a system, works, plant, equipment or service:
- (i) for the conveyance of telephone or telegraph messages;
 - (ii) for the conveyance of travellers or goods over a railway or other roadway; or
 - (iii) for the generation, production, transmission, delivery or supply of water, heat, electricity, oil, gas or other hydrocarbons or any other substance, directly or indirectly, to or for the public.

R.S.S. 1978, c.W-11, s.2; 1979, c.81, s.3; 1983-84, c.63, s.19; 2002, c.S-35.02, s.164; 2005, c.S-35.03, s.122; 2005, c.M-36.1, s.482; 2013, c.32, s.8.

ESTABLISHMENT OF WATERSHED ASSOCIATIONS

Application for establishment

3 Any two or more agencies may apply to the minister for the establishment of a watershed association under this Act by filing with the minister an application setting forth:

- (a) the objects for which the association is to be established;
- (b) the nature of the interests of the agencies in matters relating to the objects for which the association is to be established; and
- (c) particulars of investments made by the agencies and of the requirements of the agencies with respect to matters relating to objects for which the association is to be established.

R.S.S. 1978, c.W-11, s.3.

Order establishing association

4(1) Upon receipt of an application under section 3 the minister may recommend to the Lieutenant Governor in Council that an association be established in accordance with the application, and upon such a recommendation the Lieutenant Governor in Council may by order constitute the applicants as a watershed association under the name of "The _____ Watershed Association No. ____",

the first blank being filled in with the name of a river, creek, lake or other body of water and the second blank being filled in with the number assigned to the association.

(2) An order made under subsection (1) shall:

- (a) set forth the names of the agencies constituting the association;
- (b) specify the number of persons to be appointed by the agencies, respectively, pursuant to section 9 as members of the board of directors of the association, the various numbers to be such as will, in the opinion of the Lieutenant Governor in Council, provide equitable representation of the several agencies on the board.

R.S.S. 1978, c.W-11, s.4.

Alteration of membership of association

5 Upon the application of the board of an association, approved by the agency concerned, the minister may recommend to the Lieutenant Governor in Council that the membership of the association be altered, in accordance with the application, by the addition of an agency or the withdrawal of an agency, as the case may require, and upon such a recommendation the Lieutenant Governor in Council may by order alter the membership of the association accordingly and make such provision for altering the membership of the board and making adjustments as may be deemed necessary by reason of the alteration of the membership of the association.

R.S.S. 1978, c.W-11, s.5.

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Appeal to minister in respect of withdrawal from, or addition to, association**6(1)** Where:

- (a) an agency that is included in a watershed association has notified the association in writing that it wishes to withdraw from the association; or
- (b) an agency has notified a watershed association in writing that it wishes to be added to the association;

and the board of the watershed association refuses or fails to submit an application to the minister requesting the withdrawal or addition of the agency, as the case requires, the agency may appeal the refusal to the minister or advise him of the failure.

(2) The Lieutenant Governor in Council, on the recommendation of the minister made upon consideration of the appeal or advisement, may:

- (a) confirm the refusal of the watershed association with respect to the withdrawal from, or addition to, the watershed association of the agency, as the case requires; or
- (b) direct that the membership of the agency in the watershed association cease or that the agency be a member of the watershed association, as the case requires;

and may make such provision for altering the membership of the board and making adjustments as may be deemed necessary by reason of any alteration of the membership of the association.

R.S.S. 1978, c.W-11, s.6.

Fiscal year

7 The fiscal year of an association shall commence on the first day of January and end on the thirty-first day of December in each year.

R.S.S. 1978, c.W-11, s.7.

BOARD OF DIRECTORS**Management of association by board**

8 The affairs of an association shall be managed by a board of directors consisting of the persons appointed pursuant to section 9.

R.S.S. 1978, c.W-11, s.8.

Appointment of board

9 The agencies constituting the association shall each appoint to the board of directors the number of persons specified in the order constituting the association as the number to be so appointed by them respectively.

R.S.S. 1978, c.W-11, s.9.

c. W-11**WATERSHED ASSOCIATIONS****Alteration of number of persons to be appointed to board**

10 The Lieutenant Governor in Council may at any time, if deemed advisable for the purpose of ensuring that the several agencies constituting the association will be equitably represented on the board, by order increase or reduce the number of persons to be appointed by any specified agency, and where such an order is made the agency affected shall take such action as may be necessary to increase or reduce its representation on the board, as the case may require.

R.S.S. 1978, c.W-11, s.10.

Notice of appointments

11 Every agency shall, forthwith after making an appointment pursuant to section 9 or making a change pursuant to an order made under section 10, give the minister written notice of the appointment or change.

R.S.S. 1978, c.W-11, s.11.

Tenure of office

12 Every member of the board shall hold office during the pleasure of the agency by which he was appointed.

R.S.S. 1978, c.W-11, s.12.

Body corporate

13 Upon the establishment of the board the members thereof and their successors are a body corporate under the name of "The _____ Watershed Association Board", the blank being filled in to correspond with the name of the association.

R.S.S. 1978, c.W-11, s.13.

Chairperson and vice-chairperson

14(1) At the first meeting of the board, and thereafter at the first meeting held in each calendar year, the board shall elect a chairperson and a vice-chairperson from among its members.

(2) Upon the death of the chairperson or the vice-chairperson, or upon either of them ceasing to be a member of the board, the remaining members may elect a chairperson or vice-chairperson to fill the vacancy.

(3) In the absence of the chairperson and the vice-chairperson from a meeting of the board the members present shall elect an acting chairperson who, for the purposes of that meeting, shall have all the powers and perform all the duties of the chairperson.

R.S.S. 1978, c.W-11, s.14; 2015, c.21, s.64.

Secretary and treasurer

15(1) Subject to subsection (2), the board shall appoint a secretary and a treasurer or a secretary treasurer.

(2) Upon the request of the board the minister may appoint a person in the public service of Saskatchewan as secretary or treasurer or secretary treasurer of the board, and upon the request of two or more boards the minister may appoint such a person as secretary or treasurer or secretary treasurer of those boards.

(3) The board shall require the treasurer or the secretary treasurer, unless he is appointed under subsection (2), to furnish a fidelity bond issued by a guarantee company within the meaning of *The Guarantee Companies Securities Act* in such amount as the board shall fix, and the board shall pay all premiums in respect of the bond.

R.S.S. 1978, c.W-11, s.15.

Meetings

16(1) The board shall hold meetings at the times and places determined by resolution of the board.

(2) The chairperson or any two members of the board may at any time call a special meeting of the board.

(3) The secretary or secretary treasurer shall give reasonable notice of every meeting to all members of the board.

R.S.S. 1978, c.W-11, s.16; 2015, c.21, s.64.

Quorum

17 A majority of the members of the board shall constitute a quorum.

R.S.S. 1978, c.W-11, s.17.

Rules for conduct of business

18 The board may make rules for the conduct of its business and may provide for the election or appointment of committees for the purpose of expediting its business.

R.S.S. 1978, c.W-11, s.18.

Board members may perform other duties

19 A board may, by resolution, authorize its members to attend conventions or meetings, other than board meetings, and to perform duties for the board.

1979, c.81, s.4.

Remuneration of board members

19.1(1) A board may, by resolution, fix the amount of remuneration and allowances for expenses to be paid to members for attending board meetings and for their services pursuant to section 19.

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- (2) No payment shall be made under this section until:
- (a) the member of the board claiming payment has filed with the secretary treasurer an itemized account showing the work done, services performed or meetings or conventions attended, the distance travelled, and sustenance, accommodation and other expenses claimed; and
 - (b) the chairperson or a resolution of the board authorizes payment.
- (3) Subject to the approval of the Lieutenant Governor in Council, the minister may, out of moneys appropriated by the Legislature for the construction or operation of projects' pay any costs incurred in conducting the affairs and business of the association a period of one year after the board is appointed.

1979, c.81, s.4; 2015, c.21, s.64.

Annual audit

- 20(1)** The board shall cause its accounts to be audited annually, at the expense of the board, by an auditor approved by the minister.
- (2) A copy of the report of the auditor shall be forwarded by the auditor to the minister before the first day of June in each year.

R.S.S. 1978, c.W-11, s.20.

POWERS OF BOARD**General powers**

- 21(1)** Subject to subsection (2) and *The Water Security Agency Act*, the board may:
- (a) plan, undertake, construct, alter, improve, maintain, repair and operate projects in which the agencies constituting the association have a common interest:
 - (i) for the purpose of storing, conserving, using, controlling, protecting or developing the water or water resources available to the association; and
 - (ii) for the purpose of conserving, controlling, protecting or developing land, forest or recreation resources, fish, wild animals or wild birds, insofar as may be necessary or incidental to the achievement of the purpose mentioned in subclause (i);
 - (b) study and investigate, or cause to be studied and investigated, any resources available to the association where it is deemed advisable to do so in relation to the exercise of any of the powers conferred by clause (a);
 - (c) where a project is undertaken under clause (a), construct, alter, improve, maintain, repair or operate the project either directly in the name of the board or indirectly, by agreement with the minister, in the name of the minister as its agent;

- (d) if a project is undertaken directly in the name of the board:
 - (i) pay the total cost thereof; or
 - (ii) receive payment of the total cost thereof from any other person or organization; or
 - (iii) pay a part of the cost thereof and receive payment of a part of the cost thereof from any other person or organization;
 - (e) if a project or any part of a project is undertaken in the name of the minister and paid for by him, pay to the minister its share of the cost thereof;
 - (f) with the approval of the minister, transfer to any of the agencies constituting the association, or to any other person or organization, the power and duty to maintain and operate any project under the jurisdiction of the board that in the opinion of the board ought to be maintained and operated by such agency, person or organization;
 - (g) with the approval of the minister, revoke a transfer made under clause (f);
 - (h) enter into such agreement with any owner of land as is considered necessary or advisable for the purpose of a project or for the purpose of any conservation practice;
 - (i) enter into an agreement with any person for the purchase or sale of materials, equipment and supplies and the furnishing of services and for any other purpose relating to the exercise of any of the powers of the board;
 - (j) with the approval of the minister, enter into an agreement with the Government of Canada, the Government of Saskatchewan, the council of a municipality, or with a corporation, for any purpose relating to the exercise of the powers of the board;
 - (k) for the purpose of recreation, use or authorize the use of any land or water-control works acquired, constructed or maintained by or on behalf of the board, and impose reasonable fees for the use of or entrance onto such land or works;
 - (l) erect, or permit to be erected, buildings or other structures for the purpose of recreation, and impose reasonable fees for the use of or entrance into such buildings or structures;
 - (m) sell water from reservoirs constructed or operated by or on behalf of the board;
 - (n) sell hay or any other crops grown on lands under the control of the board;
 - (o) impose reasonable fees upon persons deriving benefits through the use of any of the works controlled by the board.
- (2) The powers of the board under subsection (1) do not extend to water-control works that are under the direction or control of the Government of Canada or the Government of Saskatchewan or of a Crown corporation, municipality, conservation and development area, water users association or irrigation district unless the responsibility for the works is assumed by the board pursuant to an agreement in writing between the board and the appropriate authority.

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Power to acquire land

22(1) Lands required for the purpose of a project, whether they are vested in the Crown or in any other person, or any interest in or right or privilege with regard to any land so required, may be taken and acquired by the board and all the provisions of *The Expropriation Procedure Act* shall apply as if they were included in this Act.

(2) Where the board considers it desirable to do so it may, instead of proceeding under subsection (1):

(a) acquire land for the purpose of a project, or an interest in such land, by agreement with the owner of the land; or

(b) acquire a right or privilege with regard to land required for the purpose of a project by easement agreement with the owner of the land.

(3) *The Public Utilities Easements Act* applies *mutatis mutandis* with respect to an easement agreement entered into under clause (b) of subsection (2).

(4) Subject to subsection (5), any land, and any interest in or right or privilege with regard to land, acquired under subsection (1) or (2) shall, when no longer required for the purposes of the board, be sold, leased or otherwise disposed of.

(5) Where land or an interest in or a right or privilege with regard to land is to be sold, leased or otherwise disposed of pursuant to subsection (4) it shall if practicable be sold to the person from whom it was acquired.

R.S.S. 1978, c.W-11, s.22.

Liability of board for damages

23(1) A board is civilly liable for damages where any land, crop, livestock, building or appurtenance is injuriously affected as a result of the exercise of any of the powers conferred upon the board by this Act.

(2) A written notice of a claim for damages mentioned in subsection (1) shall set out particulars of the claim and shall be served upon or sent by registered or certified mail to the secretary treasurer of the board:

(a) subject to clause (b), within sixty days after the day the alleged injury occurred or within sixty days after the day the alleged injury became known to the claimant;

(b) where the claimant is an infant or a person who lacks capacity, within sixty days after he has ceased to be under the disability or, in the case of his death while under disability, within sixty days after his death;

and, where this subsection is not complied with, the claimant's right to damages for the alleged injury is barred.

(3) Where a claimant and a board do not agree upon the amount of compensation to be paid with respect to a claim for damages under this section:

(a) either party may apply to a judge of the Court of Queen's Bench to have the amount determined; or

(b) if the amount claimed is less than \$500, the parties may agree to have the amount determined by arbitration.

1979, c.81, s.5; 1979-80, c.92, s.110; 2015, c.21, s.62; 2018, c.42, s.65.

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Application to judge to determine compensation

23.1(1) Where an application is made pursuant to clause 23(3)(a), the judge shall appoint a time and place for a hearing, and notice of the hearing shall be given by the applicant to the other party in any manner that the judge directs.

(2) Any person who is aggrieved by a decision of a judge under subsection (1) may, where leave is granted to appeal from his decision, appeal to the Court of Appeal, and there is no further appeal.

1979, c.81, s.5.

Arbitration to determine compensation

23.2(1) Where the parties agree to an arbitration pursuant to clause 23(3)(b), a board of arbitration shall be appointed consisting of:

- (a) one person appointed by the claimant;
- (b) one person appointed by the board; and
- (c) one person appointed jointly by the persons appointed pursuant to clauses (a) and (b).

(2) Either party may make an application pursuant to clause 23(3)(a) where:

- (a) within thirty days after an agreement is made to arbitrate, all the arbitrators have not been appointed; or
- (b) within thirty days after the arbitrators have been appointed, an award has not been made.

(3) The award of a board of arbitration is final and binding and may be filed with the local registrar of the Court of Queen's Bench and is enforceable as a judgment or order of that court.

(4) *The Arbitration Act, 1992* applies, *mutatis mutandis*, to an arbitration under this section.

1979, c.81, s.5; 1979-80, c.92, s.110; 1992, c.A-24.1, s.61.

ANNUAL LEVIES

Power of board to make annual levy

24 For the purpose of paying the costs of administering and conducting the affairs and business of an association and the cost incurred or to be incurred by the board in the exercise of any of the powers of the board under this Act, the board may levy annually a sum against each of the agencies constituting the association.

R.S.S. 1978, c.W-11, s.24.

Works carried out by public utility

24.1(1) Any works that are to be constructed, replaced, altered or maintained on, through or over any land controlled by a public utility may be carried out in whole or in part by the public utility.

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(2) Where the public utility does not exercise its powers under subsection (1) or does not complete the construction, replacement, alteration or maintenance of the works within a reasonable time, the board may, upon notice to the public utility of its intention to do so, construct, replace, alter or maintain the works.

1979, c.81, s.6.

Public utility to pay costs of works

24.2(1) Notwithstanding section 24, a public utility shall be assessed for and shall pay all the increase in cost of the construction, replacement, alteration or maintenance of works that is caused by the existence of the public utility.

(2) Where the amount of increase in cost mentioned in subsection (1) cannot be agreed upon between the public utility and the board, the Saskatchewan Municipal Board shall, upon application to it by either party, decide the matter, and its decision is final and binding.

1979, c.81, s.6; 1989-90, c.5, s.14.

Determination of amount of levy and notice to agency

25(1) At its first meeting in each year and not later than the fourteenth day of February, the board shall determine the total amount required in that year to pay the costs mentioned in section 24, and shall, by resolution approved by not less than two-thirds of the members of the board, apportion that amount to the agencies constituting the association according to the benefit derived or to be derived, in the opinion of the board, by each agency.

(2) The amount apportioned to an agency shall be levied against that agency, and the secretary of the board shall forthwith give written notice to the secretary of the agency of the amount so levied.

R.S.S. 1978, c.W-11, s.28.

Appeal to Saskatchewan Municipal Board

26(1) An agency may appeal to the Saskatchewan Municipal Board from the apportionment and levy.

(2) Upon an appeal the Saskatchewan Municipal Board shall confirm the apportionment and levy or alter the apportionment and levy as it deems just, and its decision shall be final.

R.S.S. 1978, c.W-11, s.26; 1989-90, c.5, s.14 and 15.

Proceedings on appeal

27 In an appeal under section 26 the proceedings shall be as follows:

Notice of appeal

1 the appellant shall, within twenty days after the date of the notice given pursuant to subsection (2) of section 25, serve upon the secretary of the board a written notice of appeal;

Lists of appeals

2 the secretary of the board shall, immediately after the expiration of the time limited for service of the notice, forward a list of all appeals to the secretary of the Saskatchewan Municipal Board and the Saskatchewan Municipal Board shall fix a day and place for the hearing of the appeals;

Notification of parties interested

3 the secretary of the board shall, immediately upon being notified by the Saskatchewan Municipal Board of the day fixed for the hearing of the appeals, give notice in writing to all parties interested in the appeals respectively of the time and place fixed by the Saskatchewan Municipal Board for the hearing of the appeals;

Time of notice

4 such notice shall be posted by registered mail to the post office address of each appellant as stated in his notice, at least fifteen days before the day fixed for the hearing of the appeals; provided that if the secretary of the board fails to have the required service of the notice given or to have it given in proper time, the Saskatchewan Municipal Board may direct the service to be made for a subsequent day then to be fixed by it for the hearing of the appeal;

Secretary to be clerk of Saskatchewan Municipal Board

5 the secretary of the board shall be the clerk of the Saskatchewan Municipal Board at its sittings for hearing the appeals and may issue notices to parties and witnesses to attend and to produce documents;

Persons served with notice required to attend

6 every person served with notice shall attend pursuant to the notice, and the notice shall be of the same force and effect as a subpoena;

Hearing and determination of appeals

7 at the time appointed the Saskatchewan Municipal Board shall hear the appeals and it may adjourn the hearing from time to time and defer decision thereon at pleasure, but all appeals shall be determined before the first day of May in the year in which the notices of intention to appeal are given. All decisions shall be in writing and shall be filed with the secretary of the board;

Attendance of parties, production of books, etc.

8 in the proceedings the Saskatchewan Municipal Board shall have all such powers for compelling the attendance and for the examination on oath of all parties, whether claiming or objecting or objected to, and all other persons, and for the production of books, papers, rolls and documents and for the enforcement of its orders and decisions, as belong to or might be exercised by a judge of the Court of Queen's Bench in respect of any civil proceeding in that court;

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9 the Saskatchewan Municipal Board may inspect any property to which an appeal relates in any respect, and may base its decision wholly or in part upon such an inspection;

Costs of proceedings

10 the costs of any proceeding before the Saskatchewan Municipal Board shall be paid by or apportioned between the parties in such manner as the Saskatchewan Municipal Board thinks proper, and where costs are ordered to be paid by any party payment thereof may be enforced by execution to be issued in the same manner as upon a judgment for costs in the Court of Queen's Bench;

Same

11 no costs shall be awarded except the costs of witnesses and of procuring their attendance and the costs of issuing and of enforcing execution, and such costs shall be on the same scale as costs in a civil proceeding in the Court of Queen's Bench.

R.S.S. 1978, c.W-11, s.27; 1979-80, c.92, s.110;
1989-90, c.5, s.15; 2018, c.42, s.65.

Payment and recovery of sums levied

28(1) Every agency shall, on or before the thirty-first day of December in the year in which a sum is levied against it, pay that sum to the treasurer or secretary treasurer of the board.

(2) Every such sum payable by an agency and remaining unpaid after the date on which it is payable pursuant to subsection (1) is a debt payable by the agency to the board, bearing interest at the rate prescribed in the regulations from the first day of January in the year commencing next after the end of the year in which the sum is levied, and the sum may be recovered, with accrued interest, by suit in the name of the board.

R.S.S. 1978, c.W-11, s.28; 1979, c.81, s.7.

Manner of raising sums levied against certain agencies

29 Sums payable under this Act by an agency that raises money by assessment and taxation may be included in the general levy of the agency or may be raised by a special levy, and in the case of a special levy the sums shall be levied in the same manner as general rates of the agency or on that portion of the area assessed and taxed by the agency which is affected by the activities of the association, and the provisions of the relevant Acts respecting the assessment and collection of taxes, including penalties for non-payment and provisions for enforcing payment thereof and the provisions of *The Tax Enforcement Act*, apply to those sums in the same manner and to the same extent as if they were part of the general levy of the agency.

R.S.S. 1978, c.W-11, s.29; 1979, c.81, s.8.

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BORROWING POWERS

Power of board

30(1) The board may by resolution authorize the chairperson and the treasurer or secretary treasurer to borrow such moneys as may be required to meet expenditures until the sums levied against the agencies constituting the association are paid to the board.

(2) The resolution shall specify the amount to be borrowed and the rate of interest to be paid.

(3) The repayment of moneys borrowed under subsection (1) may be secured by promissory note of the chairperson and the treasurer or secretary treasurer given on behalf of the board.

R.S.S. 1978, c.W-11, s.30; 2015, c.21, s.64.

MISCELLANEOUS

Powers of minister respecting financial assistance to boards

31 The minister may enter into an agreement with a board providing for:

- (a) the making of grants to the board for the purpose of assisting the board in the exercise of any of its powers;
- (b) the furnishing to the board of engineering and technical assistance;
- (c) the construction, repair and maintenance of any works on behalf of the board;
- (d) the payment by the board to the minister of all or a specified portion of the expenses incurred in carrying out any provision of the agreement relating to a matter mentioned in clause (b) or (c).

R.S.S. 1978, c.W-11, s.31.

Regulations

32(1) For the purpose of carrying out the provisions of this Act according to their intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make regulations not inconsistent with the spirit of this Act, which shall have the same force and effect as if enacted herein.

(2) **Repealed.** 1989-90, c.54, s.5.

R.S.S. 1978, c.W-11, s.32; 1989-90, c.54, s.5.

