

CHAPTER 7-25A

IMPROVEMENT DISTRICTS

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7-25A-1. Definition of terms.

Terms used in this chapter mean:

- (1) "Board" or "board of supervisors," the governing board of the district;
- (2) "Bond," any general obligation bond, assessment bond, refunding bond, revenue bond, and other obligation in the nature of a bond as is provided for in this chapter, as the case may be. This term includes "certificate" and the provisions which are applicable to bonds are equally applicable to certificates;
- (3) "Cost," if used with reference to any project, includes, but is not limited to:
 - (a) The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction;
 - (b) The cost of surveys, estimates, plans, and specifications;
 - (c) The cost of improvements;
 - (d) Engineering, fiscal and legal expenses and charges;
 - (e) The cost of all labor, materials, machinery, and equipment;
 - (f) The cost of all lands, properties, rights, easements, and franchises acquired;
 - (g) Financing charges;
 - (h) The creation of initial reserve and debt service funds;
 - (i) Working capital;
 - (j) Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for a reasonable period of time after completion of construction or acquisition as the board may determine;
 - (k) The cost of issuance of bonds pursuant to this chapter, including advertisements and printing;
 - (l) The cost of any election held pursuant to this chapter and all other expenses of issuance of bonds;
 - (m) The discount, if any, on the sale or exchange of bonds;
 - (n) Administrative expenses; and
 - (o) Such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project or to the financing thereof, or to the development of any lands within the district;
- (4) "District," the improvement district;
- (5) "District roads," all highways, streets, roads, alleys, sidewalks, storm drains, bridges, and thoroughfares of all kinds and descriptions contained within the boundaries of the district;
- (6) "Improvement district," a local unit of special purpose government which is created pursuant to this chapter and limited to the performance of those functions authorized by this chapter, the boundaries of which contain no less than three hundred twenty acres, the governing head of which is a body created, organized, and authorized to function specifically as prescribed in this chapter;
- (7) "Landowner" or "owner," any individual, firm, or corporation, public or private, or public agency, who has legal title to real property as shown by the records of the register of deeds of the county in which the real property is situated;
- (8) "Local government," a county, municipality, or any political subdivision thereof;
- (9) "Project," any development, improvement, property, utility, facility, works, or service now existing or hereafter undertaken or established under the provisions of subdivisions 7-25A-7(21) and (22);

- (10) "Sewer system," any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, without limitation, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource;
- (11) "Water management and control facilities," any lakes, canals, ditches, reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works, structures or facilities for the conservation, control, development, utilization, and disposal of water, and any purposes appurtenant, necessary, or incidental thereto;
- (12) "Water system," any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water.

Source: SL 1989, ch 59, § 1; SL 2011, ch 39, § 1; SL 2011, ch 136, § 4.

7-25A-2. Petition for establishment of improvement district--Contents.

A petition for the establishment of an improvement district shall be filed with the auditor of each county in which the proposed district is located. The petition shall contain:

- (1) The legal description of the property of the district;
- (2) The written consent by the owner or owners of one hundred percent of the real property to be included in the district, consenting to the establishment of the district and the filing of the petition, or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of one hundred percent of the real property to be included in the district;
- (3) A designation of five persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members;
- (4) The proposed name of the district;
- (5) An accurate survey and map of the territory intended to be embraced within the proposed district showing the boundaries and area thereof. The accuracy thereof shall be verified by affidavit of a licensed surveyor. The survey and map, when completed and verified, shall be left at a convenient public office, to be designated by the county auditor of the county in which the petition is filed, for a period of not less than twenty days for examination by those having an interest in the application;
- (6) The proposed timetable for construction of the district services and the estimated cost of constructing the services;
- (7) An economic impact statement of the district upon the county;
- (8) An environmental impact survey; and
- (9) A statement that the creation of the district is consistent with any applicable comprehensive or effective local government plan.

Source: SL 1989, ch 59, § 2.

7-25A-3. Hearing upon petition--Notice.

Upon the filing of the petition, the county commission of the county in which the majority of land in which the proposed district is located shall schedule a hearing to hear objections to the petition, shall give notice of the time and place fixed for the hearing by publication once each week for two consecutive weeks in a newspaper of general circulation in each county in which the proposed district is located, and shall permit the inspection of the petition at the office of the auditor of each county by all persons. The second notice may not be published more than thirty days or less than ten days before the hearing.

Source: SL 1989, ch 59, § 3.

7-25A-4. Factors for consideration--Requirements.

The county commission, in considering the petition, shall determine whether all the following requirements have been met:

- (1) That all statements contained within the petition have been found to be true and correct;
- (2) That the creation of the district is not inconsistent with any applicable comprehensive plan or effective local government plan;
- (3) That the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community;
- (4) That the probable beneficial impact of the district outweighs any probable adverse socioeconomic impact of the proposed district.

Source: SL 1989, ch 59, § 4.

7-25A-5. Order establishing district--Appointment of additional members to board--Term of office.

Upon conclusion of the hearing, if the county commission determines all requirements of § 7-25A-4 have been satisfied, the commission may enter an order granting the establishment of the district and setting forth its findings and conclusions. If an order is entered granting establishment of the district, the county commission shall appoint two additional members to the board of supervisors. However, if the proposed district is within the three mile radius of a municipality, the county commission shall appoint one member, and the municipal governing body shall appoint one member. An appointed member shall serve until replaced by the governing body responsible for the appointment or until the first election and may not be an elected official of the county or the municipality.

Source: SL 1989, ch 59, § 5.

7-25A-6. Filing of order required.

A certified copy of the order shall be filed with the register of deeds and auditor of each county in which the district is located.

Source: SL 1989, ch 59, § 6.

7-25A-7. Powers of district.

The district shall have, and the board may exercise, the following powers:

- (1) To sue and be sued in the name of the district;
- (2) To adopt and use a seal and authorize the use of a facsimile thereof;
- (3) To acquire, by purchase, gift, devise, or otherwise, real and personal property, or any estate therein;
- (4) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers;
- (5) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature;
- (6) To borrow money and accept gifts;
- (7) To apply for and use grants, or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith;
- (8) To hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan or agreement relating thereto;
- (9) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners;
- (10) To hold, control, and acquire by donation or purchase any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes

- authorized by this chapter and to make use of such easements, dedications or reservations for any of the purposes authorized by this chapter;
- (11) To lease as lessor or lessee to or from any person, firm, limited liability company, corporation, association or body, public or private, any projects of the type that the district may undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this chapter;
 - (12) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as provided by this chapter;
 - (13) To levy such tax and special assessments as may be authorized by this chapter;
 - (14) To charge, collect, and enforce fees and other user charges;
 - (15) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law;
 - (16) To exercise within the district the right and power of eminent domain, pursuant to the provisions of chapters [7-18](#) and [9-27](#) and over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another;
 - (16A) To exercise beyond the district, with prior approval by resolution of the governing body of the county if the taking will occur in an unincorporated area, or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of chapters [7-18](#) and [9-27](#) and over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to a potable water system and sewer system;
 - (17) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this chapter;
 - (18) To assess and impose upon lands in the district ad valorem taxes;
 - (19) To impose and foreclose special assessment liens as provided by this chapter;
 - (20) To exercise such powers as may be authorized by this chapter and in accordance with the provisions of chapters [1-24](#) and [1-25](#);
 - (21) To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructures, all of which shall be exempt from property taxation:
 - (a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges;
 - (b) Water supply, sewer and waste water management, or any combination thereof;
 - (c) Bridges or culverts; and
 - (d) District roads, equal to or exceeding the specifications of the county in which the district roads are located, and street lights;
 - (22) After the board has obtained the consent of the local government within the jurisdiction of which a power specified in this subdivision is to be exercised, to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:
 - (a) Parks and facilities for indoor and outdoor recreational, cultural, and education uses;
 - (b) Fire prevention and control, including fire stations, water mains, and plugs;
 - (c) School buildings and related structures;
 - (d) Security, subject to compliance with all applicable state regulations;
 - (e) Waste collection and disposal;
 - (f) Conventions; and

- (g) Parking;
- (23) To purchase, sell or operate a water or sewer utility;
 - (24) To adopt and enforce an improvement district building code if the district has first obtained the consent of the county within which the district lies for the exercise of this power;
 - (25) Notwithstanding the provisions of § [1-24-2](#), to provide for law enforcement within the district through joint exercise of governmental powers agreements pursuant to chapter [1-24](#); and
 - (26) To exercise jointly with other authorized political subdivisions any power granted under chapters [6-3](#) and [6-5](#).

Source: SL 1989, ch 59, § 7; SL 1991, ch 64, § 1; SL 1994, ch 351, § 7.

[7-25A-8](#). Hearing prerequisite to purchase or sale of certain water or sewer utilities.

No improvement district may purchase or sell a water or sewer utility that provides service to the public for compensation until the governing body of the improvement district has held a public hearing on the purchase or sale and made a determination that the purchase or sale is in the public interest.

Source: SL 1989, ch 59, § 8.

[7-25A-9](#). Powers of board--Composition--Term of office.

The board of the district may exercise the powers granted to the district pursuant to this chapter. The board shall consist of five to seven members. Each elected member shall hold office for a term of six years and until his successor is chosen and qualifies. The members of the board shall be citizens of the United States.

Source: SL 1989, ch 59, § 9.

[7-25A-10](#). Election of board members.

The board shall schedule an election of board members to be held on or before:

- (1) The date of the first general municipal election after the tenth anniversary of the formation of the district; or
- (2) The first general municipal election after the board receives notice of certification from the county auditor that at least forty-five registered voters reside in the district;

which ever occurs last.

The county auditor shall count the number of registered voters in each district in the county before December second of each odd numbered year. If the county auditor counts forty-five or more registered voters residing in the district, the county auditor shall certify the number of registered voters in that district and send notice of certification, by certified mail, to the board. No county auditor is required to count the number of registered voters in a district after the notice has been sent to the board or the district has held an election. At the first election, one board member shall be elected for a six-year term, two members shall be elected for a four-year term, and two members shall be elected for a two-year term. The candidate receiving the highest number of votes shall serve a six-year term, the two candidates receiving the next highest number of votes shall serve four-year terms, and the two candidates receiving the next highest number of votes shall serve two-year terms. After the first election, the term for each board member shall be a six-year term. All elected board members shall be registered voters of the district.

Source: SL 1989, ch 59, § 10; SL 1999, ch 36, § 1; SL 2017, ch 55, § 1.

[7-25A-11](#). Conduct of elections--Costs borne by district.

All elections pursuant to this chapter shall be conducted, canvassed, recounted, and contested as other elections under the general municipal election laws of this state. All election costs are to be borne by the improvement district.

Source: SL 1989, ch 59, § 11.

7-25A-12. Conduct of campaigns.

Candidates seeking election to office shall conduct their campaigns in accordance with the provisions of Title 12.

Source: SL 1989, ch 59, § 12.

7-25A-13. Appointments made by supervisor of elections--Other duties.

The improvement district supervisor of elections shall appoint the inspectors and clerks of elections, prepare and furnish the ballots, designate polling places, and canvass the returns of the election.

Source: SL 1989, ch 59, § 13.

7-25A-14. Board members known as supervisors--Oath and term of office--Vacancies.

Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by law. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

Source: SL 1989, ch 59, § 14.

7-25A-15. Majority constitutes quorum.

A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members.

Source: SL 1989, ch 59, § 15.

7-25A-16. Election of chairman--Other officers.

As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chairman and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

Source: SL 1989, ch 59, § 16.

7-25A-17. Compensation of board members.

Each member of the board of supervisors shall receive an amount not to exceed one hundred dollars per month or an amount established by the electors at referendum. In addition, each supervisor shall receive travel and per diem expenses as set by the board.

Source: SL 1989, ch 59, § 17; SL 2016, ch 44, § 66.

7-25A-18. District manager--Compensation--Duties.

The board shall employ, and fix the compensation of, a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this chapter, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board.

Source: SL 1989, ch 59, § 18.

7-25A-19. Relationships not constituting conflict of interest.

It is not a conflict of interest for members of the board, the district manager or other employee of the district to be a landowner, or a stockholder, officer, or employee of a landowner.

Source: SL 1989, ch 59, § 19; SL 1991, ch 64, § 2.

7-25A-20. Authority of manager to hire--Compensation of employees determined by board.

The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board.

Source: SL 1989, ch 59, § 20.

7-25A-21. Designation of treasurer--Powers and duties--Disbursement of funds--Bond.

The board shall designate a person as treasurer of the district, who is in charge of the funds of the district. The funds may only be disbursed upon the order, or pursuant to the resolution, of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer other or additional powers and duties as the board deems appropriate and may fix the compensation for the treasurer. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as is deemed satisfactory to the board to secure the performance by the treasurer of the powers and duties.

Source: SL 1989, ch 59, § 21; SL 2016, ch 44, § 67.

7-25A-22. Selection of depository.

The board may select as a depository for its funds any qualified public depository as set out in §§ [9-22-6](#) and [9-22-6.1](#).

Source: SL 1989, ch 59, § 22.

7-25A-23. Provision of utilities--Powers of district.

If the board assumes the responsibility for providing utilities, the district shall have the powers provided in chapters [9-40](#) and [9-47](#), insofar as such chapters relate to projects undertaken pursuant to subdivision 7-25A-7(21).

Source: SL 1989, ch 59, § 23.

7-25A-24. District's authority to obtain loans--Purpose--Interest.

The district at any time may obtain loans pursuant to chapter [9-25](#), in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district. The loans shall bear such interest as the board may determine and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. Notwithstanding the provisions of chapter [9-25](#), the terms of these loans may not exceed thirty years.

Source: SL 1989, ch 59, § 24; SL 1990, ch 52, § 4.

7-25A-25. District's authority to issue negotiable notes--Payment.

For the purpose of defraying costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times, to bear such interest as the board may determine in compliance with law and to be sold or discounted at such price or prices and on such terms as the board may deem advisable. The board may provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district. All notes shall be authorized, issued, and sold as provided in chapter [6-8B](#), except no election may be held.

Source: SL 1989, ch 59, § 25.

[7-25A-26. Board's authority to issue bonds--Purpose--Limitation.](#)

To undertake, accomplish, and complete any project or projects within the powers granted the board, the board may issue and sell bonds and other forms of indebtedness in such amount as the board may determine, for the purpose of acquiring, constructing, completing, or remodeling, maintaining, or equipping any such facility or facilities; refunding and refinancing the same from time to time as often as advantageous and in the public interest to do so; and pledging any income of such district, and any revenues derived by the district from such facilities, or any combination thereof, to secure payment of such bonds and to redeem such bonds. All districts bonds shall be authorized, issued and sold as provided in chapter [6-8B](#), except no election may be held to issue bonds other than those required by S.D. Const., Art. XIII, § 4.

Source: SL 1989, ch 59, § 26; SL 1990, ch 52, § 5.

[7-25A-27. Defeasance of bondholders--Provisions determined by board--Surplus funds.](#)

The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate. The board without limitation on the foregoing, may provide that when the bonds or obligations become due and payable or have called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and if the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate and become void. The board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than money held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

Source: SL 1989, ch 59, § 27.

[7-25A-28. Bonds constituting legal investments.](#)

Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this chapter shall constitute legal investments for savings and loans, savings banks, banks, trust companies, insurance companies, personal representatives, trustees, conservators, and other fiduciaries.

Source: SL 1989, ch 59, § 28; SL 1993, ch 213, § 79.

[7-25A-29. Default not to constitute debt or obligation of local government or state.](#)

A default on the bonds or obligations of a district does not constitute a debt or obligation of a local government or the state.

Source: SL 1989, ch 59, § 29.

[7-25A-30. Assessment of ad valorem tax--Purpose--Maximum amount--Collection.](#)

The board may levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain projects; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed ten dollars per one thousand dollars per taxable value. The ad valorem tax shall be in addition to county and all other ad valorem taxes. The tax shall be assessed, levied, and collected in the same manner and at the same time as county taxes.

Source: SL 1989, ch 59, § 30.

7-25A-31. Ad valorem taxes--Delinquency and penalties.

All ad valorem taxes provided for in this chapter shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

Source: SL 1989, ch 59, § 31.

7-25A-32. Interest on bonds exempt.

Interest on all bonds issued pursuant to this chapter is exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof.

Source: SL 1989, ch 59, § 32.

7-25A-33. Board authorized to levy special assessments for construction or acquisition of certain projects--Assessment as continuing lien.

The board may levy special assessments for the construction, reconstruction, or acquisition of projects authorized under this chapter using the procedures provided in chapter [9-43](#). The district assessments may be made payable in thirty annual installments. Such special assessments are a continuing lien on such real property as against all persons except the United States and the state. The district may obtain loans as described in § [7-25A-24](#), issue negotiable notes, warrants, or other evidences of debt as described in § [7-25A-25](#) or issue and sell bonds and other forms of indebtedness as described in § [7-25A-26](#) to finance the construction, reconstruction, or acquisition of a project or projects authorized by this chapter prior to the time the board levies special assessments for such project or projects.

Source: SL 1989, ch 59, § 33; SL 1990, ch 52, § 6.

7-25A-34. Provisions of other chapters pertaining to taxation applicable.

The provisions of chapters [10-21](#), [10-22](#), [10-23](#), [10-24](#), and [10-25](#), shall be applicable to district taxes and special assessments with the same force and effect as if such provisions were expressly set forth in this chapter.

Source: SL 1989, ch 59, § 34.

7-25A-35. Board to require use of water management and control and water and sewer facilities within district.

To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the water management and control facilities and water and sewer facilities of the district.

Source: SL 1989, ch 59, § 35.

7-25A-36. Hearing required before fixing amount charged for services--Notice--Periodic adjournment permitted.

No such rates, fees, rentals, or other charges for any of the facilities or services of the district may be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Notice of the public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall be published in a newspaper in the county and of general circulation in the district at least once and at least ten days prior to the public hearing. The hearing may be adjourned from time to time.

Source: SL 1989, ch 59, § 36.

7-25A-37. Final adoption of schedule--Filing requirements--Scope of coverage.

After the hearing, the schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of the rates, fees, rentals, or charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing.

Source: SL 1989, ch 59, § 37.

7-25A-38. Requirements for charges--Uniformity--Production of minimum revenues.

The rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class and shall be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

- (1) To provide for all expenses of operation and maintenance of such facility or service;
- (2) To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose; and
- (3) To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this chapter.

Source: SL 1989, ch 59, § 38.

7-25A-39. Recovery of charges or penalties upon default.

If any rates, fees, rentals, charges, or delinquent penalties have not been paid when due and have been in default for sixty days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

Source: SL 1989, ch 59, § 39.

7-25A-40. Board's authority to make contracts.

The board may enter into contracts for the use of the projects of the district and with respect to the services and facilities furnished or to be furnished by the district.

Source: SL 1989, ch 59, § 40.

7-25A-41. Petition for termination or contraction of districts--Contents.

A petition for the expansion, termination, or contraction of an improvement district shall be filed with the county auditor of each county in which the district is located. The petition shall contain:

- (1) A copy of the order establishing the district;
- (2) A written consent to the expansion, termination, or contraction of the district by the owner or owners of seventy-five percent of the real property in the district which consent has been given

- within the last one hundred eighty days. The written consent shall contain the legal description of the property and the name of any owner of the property affected;
- (3) A statement explaining the reasons for the proposed expansion, termination, or contraction of the district;
 - (4) For a proposed termination or contraction of the district, a statement that all debts will be paid or assumed;
 - (5) In the case of a petition for the expansion of an improvement district, the written consent by the owners of one hundred percent of the real property to be newly included in the district as a result of the expansion, consenting to the expansion of the district and the filing of the petition, or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of one hundred percent of the real property to be included in the district as a result of the expansion. Such written consent shall be given within the last one hundred eighty days, and such written consent or other documentation shall contain the legal description of the property and the name of the owners of the property;
 - (6) A copy of a resolution adopted by the board of supervisors approving the proposed petition;
 - (7) An accurate survey and map of the territory to be embraced in the boundaries of the district, as contracted or expanded, and the area thereof, which shall be verified by an affidavit of a licensed surveyor. The survey and map shall be left at a convenient public office to be designated by the county auditor of the county in which the petition is filed, for a period of not less than twenty days before the date of the hearing on the petition;
 - (8) In the case of expansion, the proposed timetable for construction of district services to the expanded area, and the estimated cost of constructing the services; and
 - (9) In the case of an expansion, an economic impact statement of the district upon the county, an environmental impact survey, and a statement that the expansion of the district is consistent with any applicable comprehensive or effective local government plan.

Source: SL 1989, ch 59, § 41; SL 1990, ch 52, § 7; SL 1991, ch 64, § 3.

7-25A-42. Commission's authority to order termination or contraction.

The county commission of the county in which the majority of land in the area in which the district is located, upon petition, may order the expansion, termination, or contraction of an improvement district as provided by this chapter.

Source: SL 1989, ch 59, § 42; SL 1990, ch 52, § 8.

7-25A-43. Hearing upon petition to terminate--Notice.

Upon the filing of the petition, the county commission shall schedule a hearing to hear objections to the petition and shall give notice of the time and place fixed for the hearing by publication once each week for two consecutive weeks in a newspaper of general circulation in each county in which the district is located. The second notice may not be published more than thirty days nor less than ten days before the hearing.

Source: SL 1989, ch 59, § 43.

7-25A-44. Factors for consideration by commission.

The county commission after conducting a hearing pursuant to this chapter, shall consider the following:

- (1) Whether all statements contained within the petition have been found to be true and correct;
- (2) Whether all the debts will be paid or assumed prior to termination;
- (3) Whether fifty percent of the owners have consented to the termination or contraction;
- (4) Whether, in the sound discretion of the county commissioners, there is good cause for termination or contraction of the district;

- (5) Whether, in a proposed expansion, the expansion of the district is consistent with any applicable comprehensive plan or effective local government plan;
- (6) Whether, in a proposed expansion, the affected area is sufficiently contiguous to the existing district to be developable with the existing district as one functional interrelated community; and
- (7) Whether, in a proposed expansion, the probable beneficial impact of the expansion of the district outweighs any probable adverse socioeconomic impact of the proposed expansion of the district.

Source: SL 1989, ch 59, § 44; SL 1990, ch 52, § 9.

7-25A-45. Order for termination or contraction--Requirements.

Upon conclusion of the hearing, if the county commission determines all requirements of § [7-25A-44](#) have been satisfied, the commission may enter an order granting the expansion, termination, or contraction of the district and setting forth its findings and conclusions.

Source: SL 1989, ch 59, § 45; SL 1990, ch 52, § 10.

7-25A-46. Filing of order.

A certified copy of the order granting the petition for the expansion, termination, or contraction of a district shall be filed with the auditor and register of deeds of each county in which the district was located or will be located as a result of an expansion.

Source: SL 1989, ch 59, § 46; SL 1990, ch 52, § 11; SL 1991, ch 64, § 4.
