

Minnesota Public Drainage Manual – Chapter 2 – VIII

Administration and Legal Considerations - Funding Collection and Payment of Drainage System Costs

Summary

The drainage authority is responsible for establishing a drainage system fund from which the payment of all costs and expenses in connection with a drainage system are made. Funding, collection, and payment for the construction of a public drainage project begins with the final order. A properly drafted final order is crucial as it not only concludes project findings but defines and directs actions into the future after the project has been constructed.

A statement showing the total cost of the drainage project with the estimated cost of all items required to complete work must be issued by the auditor or watershed district secretary after the construction contract has been awarded. The cost is then prorated to each tract of property affected in direct proportion to the benefits awarded. The cost to each property is the amount of liability for the property for the drainage project. The auditor uses this information to create the tabular lien statement, the purpose of which is to reflect the cost of the drainage system that each tract will bear. ([Section VIII, A.1](#)) More information on drainage liens is provided in [Section VIII, A](#).

In order to defray the cost of establishing and constructing a drainage system and to generate capital for disbursement from a drainage system fund until monies from liens and assessments are received, the county board may authorize the issuance of county bonds. There are four different kinds of bonds or debt instruments mentioned in [Minn. Stat. 103E](#) that may be issued by the county to pay for the cost of establishment and construction of a project: temporary drainage bonds, definitive drainage bonds, drainage funding bonds, and drainage bonds. Not all projects may require a bond as the drainage system may have enough funds to pay for a project, if not, the drainage system account may borrow funds. More information on drainage bonds is provided in [Section VIII, B](#).

Accounting for each drainage system is the responsibility of the county auditor or watershed district secretary. Each drainage system is considered as a separate entity for accounting purposes, with a full set of financial accounts. Each drainage system has a drainage system repair fund ([Section VIII, C.2](#)) and has the means of investment for excess funds ([Section VIII, C.3](#)). The drainage system accounts may lend money with interest to other drainage system accounts and may borrow money at the cost of interest from other drainage system accounts. ([Section VIII, C.4](#))

Watershed districts have no power to tax and all funds available to them are levied and collected by the respective county boards. The board of managers of a watershed district is required to maintain several separate funds for district proposes which are outlined in [Section VIII, D](#).

Introduction

Funding, collection, and payment for the construction of a public drainage project begins with the final order. In addition to establishing the public drainage system, a properly drafted final order should do at least three additional things:

1. Determine the length of time, by number of annual installments not to exceed 20 years,⁹⁰⁶ in which the assessment may be paid.
2. State the interest rate charged by the lien, which may not exceed the rate set by the state court administrator for judgments under [Minn. Stat. § 549.09](#).⁹⁰⁷
3. Apportion the share of the establishment and construction costs to be borne by each respective county if the project is a joint county one.⁹⁰⁸

FOOTNOTES

⁹⁰⁶ See Minn. Stat. § 103E.611, subd. 1 (2015) (limiting the maximum number of installments for paying drainage liens to 20 years or less).

⁹⁰⁷ See Minn. Stat. § 103E.611, subd. 2(a) (2015) (limiting the rate of interest on a drainage lien to the rate determined by the state court administrator for judgments). When the county issues drainage bonds to fund construction of a public drainage project, the county sets the interest rate to be earned by investors. Minn. Stat. § 103E.635, subd. 4 (a)(2) (2015). The county may not authorize an interest rate exceeding the rate established under Minn. Stat. § 475.55. Minn. Stat. § 103E.635, subd. 4 (a)(2) (2015). However, the county may not charge an interest rate to assessed landowners on the drainage lien in an amount that exceeds the rate determined by the court administrator for judgments under Minn. Stat. § 549.09. Minn. Stat. § 103E.611, subd. 2(a) (2015). In some economic circumstances, the two statutory limitations could be in conflict and create a situation where the cost of borrowing money through bonding is greater than the revenue that can be earned from interest on the drainage lien. For example, suppose the bonds cannot be sold at the annually adjusted rate established by the state court administrator. Legally, the bonds could not be issued under these circumstances.

⁹⁰⁸ See Minn. Stat. § 103E.345 (2015). The costs must be in proportion to the benefits received by the properties in each county, unless there is a contrary reason. Minn. Stat. § 103E.345 (2015).

A. Drainage Liens

1. Determination of Property Liability

After the construction contract has been awarded, the auditor must make a statement showing the total cost of the drainage project with the estimated cost of all items required to complete the work.⁹⁰⁹ The cost is then prorated to each tract of property affected in direct proportion to the benefits awarded.⁹¹⁰ The cost to each property, less any damages awarded to that property, is the amount of liability for that property for the drainage project.⁹¹¹ The auditor uses this information to create the tabular lien statement.⁹¹² The tabular lien statement must show the following:

1. The names of property owners, corporate entities, or political subdivisions of the county benefited or damaged by the construction of the drainage project in the viewers' report as approved by the final order for establishment;
2. The description of the property in the viewers' report, and the total number of acres in each tract according to the county tax lists;
3. The number of acres benefited or damaged in each tract shown in the viewers' report;
4. The amount of benefits and damages to each tract of property as stated in the viewers' report and confirmed by the final order that established the drainage project unless the order is appealed, and a different amount is set; and
5. The amount each tract of property will be liable for and must pay to the county for the establishment and construction of the drainage project.⁹¹³

An example tabular lien statement is provided in [Template A](#).

If any costs are omitted from the tabular lien statement, a supplemental drainage lien statement may be made in the same manner as the original drainage lien statement.⁹¹⁴ Drainage lien statements shall be

certified by the auditor, recorded on each tract by the county recorder, and then returned to the auditor for preservation in the drainage system records.⁹¹⁵

2. Determining Property Liability for Improvement Costs

When a separable portion of a drainage system is ordered to be improved, only the properties benefited by the improvement are liable for the improvement costs.⁹¹⁶ The auditor or the watershed district secretary must maintain a separate drainage system account for construction costs associated with the improvement. Bond sale proceeds for the cost of the construction of the improvement may not be commingled with funds held for maintenance and repair of the rest of the system.

When drainage systems are repaired, original establishment benefits and improvement benefits must be considered in allocating repair costs. This is so because the improvement is part of the system repaired. In such a situation, there would be a layering of benefits where lands were assessed both for the original establishment and for the improvement. There may be a certain amount of unfairness if this occurs. The statute requires that “the cost of repairing a drainage system shall be apportioned pro rata on all property and entities that have been, assessed benefits for the drainage system.”⁹¹⁷ The recommended method for alleviating the unfairness of allocating future costs using benefits determined in two separate periods is to do a full redetermination of benefits after the improvement is complete and before any future repairs are ordered.

Note that Minn. Stats. [§ 103E.729 Apportioning Repair Costs; Alternative Option](#) provides an alternative way to apportion repair costs, as discussed in Section III, G.

Project Steps from Bidding

3. Determining Property Liability for Outlet Improvement Costs

An order for improvement of an outlet has its own benefits and damages separate from the drainage system served by the outlet improvement.⁹¹⁸ Therefore, the auditor or watershed district secretary must establish a separate drainage system account for collection of costs to improve the outlet. Yet, it is a part of the system it serves. Repairs to the system upstream will be assessed pro rata against all the lands in the system, including those assessed for the improvement of the outlet. The recommended method for alleviating the unfairness of allocating future costs using benefits determined in two separate periods is to do a full redetermination of benefits after the outlet improvement is complete and before any future repairs are ordered.

4. Effect of Filed Drainage Lien

The drainage lien is a first and paramount lien, superior over all mortgages, charges, and encumbrances, regardless of time of filing, until it is fully paid.⁹¹⁹

The auditor or watershed district secretary must keep a drainage lien record for each drainage project and system that shows the amount of the drainage lien remaining unpaid against each tract of property.⁹²⁰

5. Payment of Drainage Liens

Drainage liens against the property are payable to the treasurer of the county in 20 or less equal annual installments.⁹²¹ The first installment is due on or before November 1st after the drainage lien statement

is recorded, and each subsequent installment is due on or before November 1st of each year afterward until the principal is entirely paid.⁹²²

The drainage authority may accelerate payment by ordering the drainage lien to be paid by 1/15 of the principal on or before five years from November 1 after the lien statement is recorded, and 1/15 on or before November 1 of each year afterwards until the principal is paid.⁹²³

If the principal amount of a lien is less than \$500, the drainage authority may order the drainage lien to be paid in one or two installments.⁹²⁴

Interest, at the rate set by the drainage authority, is calculated on the entire unpaid principal of the drainage lien from the date the drainage lien was recorded until August 15th of the next calendar year, and after that, from year to year, ending August 15th.⁹²⁵ Interest is due and payable after November 1st of each year the drainage lien principal or interest is due and unpaid.⁹²⁶

Any installment due and interest due must be collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as part of real estate taxes.⁹²⁷

Drainage liens may be prepaid to avoid incurring future interest.⁹²⁸

The county board may direct the county treasurer to accept outstanding bonds issued to fund public drainage projects as payment of a public drainage lien.⁹²⁹ The value of the bond is the bond's par value plus any accrued interest.⁹³⁰

6. Enforcement of Assessments

Municipality Assessments

A municipality benefited by a public drainage system pays drainage liens and interest through the municipality's own tax revenues.⁹³¹ If a municipality fails to pay, the county, on behalf of the drainage authority, may assess all of the various parcels of property within the municipality that are liable to its taxation.⁹³²

Roadway Assessments

When a county or state-aid road is assessed benefits, the assessment must be filed against the county and must be paid out of the county road and bridge fund.⁹³³

When a trunk highway is assessed benefits, a certified copy of the assessment against the state must be sent to the Commissioner of Transportation and the assessment must be paid from the trunk highway fund.⁹³⁴

If, after an assessment has been filed for benefits to a town road, the town road is later vacated by the town board under [Minn. Stat. § 164.07](#), the town board may petition the drainage authority to cancel the assessment.⁹³⁵ The drainage authority has the discretion to cancel the assessment only if it finds that the town road for which benefits are assessed has been vacated.⁹³⁶

State Property Assessments

Liabilities for benefits assessed to state property, including rural credit property, must be paid by the state from funds appropriated and available for drainage assessments after the state officer with

jurisdiction over the assessed property certifies the assessment to the commissioner of management and budget.⁹³⁷

Railroad and Utility Assessments

Enforcement of drainage liens against railroad and utility companies for benefits to its property can be challenging, as these entities may only own an easement rather than land in fee against which a drainage lien can be recorded.

The drainage code allows a drainage lien against a railroad or other utility corporation to be enforced as a lien against all property of the corporation within the county.⁹³⁸ The drainage authority may collect against a railroad or utility corporation through a civil enforcement action or foreclosure on the lien recorded against any of the company's property within the county.⁹³⁹

7. Satisfaction of Liens

When a lien is satisfied early, such as when a benefited property is sold, the auditor or watershed district must issue a certificate of payment with the auditor's seal to be recorded in the county recorder's office as evidence that the lien has been satisfied.⁹⁴⁰ The public drainage authority allows the collection of 25 cents per description for this service; otherwise, the auditor's fee and county recorder's fee must be paid by the drainage system account.⁹⁴¹ All drainage liens that are not released after prepayment are released in a blanket drainage lien release when the drainage lien schedule of payments is complete.

A sample certificate of payment is found in [Template B](#).

A sample drainage lien release is found in [Template C](#).

8. Apportionment of Liens

Auditors are often requested to apportion liens among parcels when a tract or tracts of land are subdivided or split. Apportioning the lien among the divided tracts is not as simple as dividing the lien evenly based on acreage. Drainage liens are recorded against an entire tract of land, but the drainage lien does not confer benefits to all acres against which it is recorded. For example, a drainage lien may be recorded against an entire 40 acre tract (e.g., the northwest quarter of the northwest quarter), but if only 10 acres were assessed benefits in the final order, only those 10 acres out of the 40 acre tract may use the drainage system as an outlet.⁹⁴² The drainage code provides a procedure which involves notice to all affected parties and that a hearing be held to determine how the lien will be apportioned.⁹⁴³

A person who has an interest in property that has a drainage lien attached may petition the drainage authority to request that the drainage lien be divided among specified portions of the tract.⁹⁴⁴ In order to initiate this process by petition, the payments of principal and interest on the property may not be in default.⁹⁴⁵

An example of a petition to apportion a drainage lien is found in [Template D](#).

After the petition is filed, the drainage authority must adopt an order setting a time and location for a hearing on the petition.⁹⁴⁶

An example of an order setting a time and location for a hearing on the petition is found in [Template E](#).

Notice of the hearing must be personally served⁹⁴⁷ on auditor, the occupants of the tract, and all parties having an interest in the tract as shown by the records in the county recorder's office.⁹⁴⁸ Notice must be served at least ten days before the hearing.⁹⁴⁹ If personal service cannot be given to all interested persons, then notice may be given by publication in the newspaper.⁹⁵⁰ The costs of service or publication must be paid by the petitioner.⁹⁵¹

At the hearing, the drainage authority must hear all evidence submitted by the auditor, the occupants of the tract, and all parties having an interest that appear and provide evidence.⁹⁵² After the hearing, the drainage authority adopts an order apportioning a lien.⁹⁵³

A sample order apportioning a lien is found in [Template F](#).

A certified copy of the order must be recorded with the county recorder against each of the properties and kept on file with the auditor.⁹⁵⁴

Note: The procedure contemplates a petitioner asking to have a lien apportioned or allocated among the respective parcels. The flaw in the statute is that no one wants to be the petitioner. This leaves the auditor in a difficult situation. Without a petition, the auditor has no authority to initiate the apportionment.

Commonly, a non-statutory procedure has come into use that is much more effective and efficient than that contemplated by statute. The auditor, observing the need to allocate a drainage lien, prepares an agreement wherein the auditor proposes an allocation among the tracts to be divided. The agreement is mailed to the owners of all parcels involved along with the auditor's cover letter explaining the need to allocate the lien and the proposed allocation. If all parties sign the agreement, the auditor proceeds with recording the agreement at the county recorder's office and keeping the agreement on file at the auditor's office.

FOOTNOTES

⁹⁰⁹ Minn. Stat. § 103E.601, subd. 1 (2015).

⁹¹⁰ Minn. Stat. § 103E.601, subd. 1 (2015).

⁹¹¹ Minn. Stat. § 103E.601, subd. 1 (2015).

⁹¹² See Minn. Stat. § 103E.601, subd. 2 (2015) (listing the required information to be shown in the auditor's tabular lien statement).

⁹¹³ Minn. Stat. § 103E.601, subd. 2 (2015).

⁹¹⁴ Minn. Stat. § 103E.601, subd. 3 (2015).

⁹¹⁵ Minn. Stat. § 103E.601, subd. 4 (2015).

⁹¹⁶ Minn. Stat. § 103E.215, subd. 6(b)(2) (2015).

⁹¹⁷ Minn. Stat. § 103E.728, subd. 1 (2015).

⁹¹⁸ Minn. Stat. § 103E.221, subd. 6 (2015).

⁹¹⁹ Minn. Stat. § 103E.605 (2015).

⁹²⁰ Minn. Stat. § 103E.611, subd. 6 (2015).

⁹²¹ Minn. Stat. § 103E.611, subd. 1(a) (2015).

⁹²² Minn. Stat. § 103E.611, subd. 1(a) (2015).

⁹²³ Minn. Stat. § 103E.611, subd. 1(b) (2015).

⁹²⁴ Minn. Stat. § 103E.611, subd. 1(c) (2015).

⁹²⁵ Minn. Stat. § 103E.611, subd. 2(a) & (b) (2015).

⁹²⁶ Minn. Stat. § 103E.611, subd. 2(c) (2015).

⁹²⁷ Minn. Stat. § 103E.611, subd. 3 (2015).

⁹²⁸ See Minn. Stat. § 103E.611, subd. 4 (2015) ("Interest may be paid at any time . . ."). After interest is entered on the tax list for the year, it is due as entered and there is no reduction for prepayment. See Minn. Stat. § 103E.611, subd. 3 (2015).

⁹²⁹ Minn. Stat. § 103E.611, subd. 5 (2015).

⁹³⁰ Minn. Stat. § 103E.611, subd. 5 (2015).

⁹³¹ See Minn. Stat. § 103E.615, subd. 1 (2015) (“Assessments filed for benefits to a municipality are a liability of the municipality and are due and payable with interest in installments on November 1 of each year as provided in section 103E.611.”).

⁹³² Minn. Stat. § 103E.615, subd. 1 (2015).

⁹³³ Minn. Stat. § 103E.615, subd. 2 (2015).

⁹³⁴ Minn. Stat. § 103E.615, subd. 3 (2015).

⁹³⁵ Minn. Stat. § 103E.615, subd. 4 (2015).

⁹³⁶ Minn. Stat. § 103E.615, subd. 4 (2015).

⁹³⁷ Minn. Stat. § 103E.615, subd. 5 (2015).

⁹³⁸ Minn. Stat. § 103E.615, subd. 7 (2015).

⁹³⁹ Minn. Stat. § 103E.615, subd. 7 (2015).

⁹⁴⁰ See Minn. Stat. § 103E.621 (2015).

⁹⁴¹ Minn. Stat. § 103E.621 (2015).

⁹⁴² See *Westphal v. Schmalz*, 169 N.W.2d 401 (Minn. 1969) (holding that drainage liens are imposed against entire tracts as a practical method of efficiently administering the statutory assessment scheme, but that only those acres assessed benefits may use the public drainage system as an outlet for drainage).

⁹⁴³ Minn. Stat. § 103E.631 (2015).

⁹⁴⁴ Minn. Stat. § 103E.631, subd. 1 (2015).

⁹⁴⁵ Minn. Stat. § 103E.631, subd. 1 (2015).

⁹⁴⁶ Minn. Stat. § 103E.631, subd. 2 (2015).

⁹⁴⁷ The methods of providing personal service are discussed in the Minnesota Rules of Civil Procedure, Rule 4.03.

⁹⁴⁸ Minn. Stat. § 103E.631, subd. 2 (2015).

⁹⁴⁹ Minn. Stat. § 103E.631, subd. 2 (2015).

⁹⁵⁰ Minn. Stat. § 103E.631, subd. 2 (2015). Notice by publication means that notice is published at least once a week for three successive weeks in a legal newspaper in general circulation in each county affected by the notice. Minn. Stat. § 103E.005, subd. 24 (2015).

⁹⁵¹ Minn. Stat. § 103E.631, subd. 2 (2015).

⁹⁵² Minn. Stat. § 103E.631, subd. 3 (2015).

⁹⁵³ Minn. Stat. § 103E.631, subd. 3 (2015).

⁹⁵⁴ Minn. Stat. § 103E.631, subd. 3 (2015).

B. Drainage Bond Issues

The drainage code mentions four different kinds of bonds (debt instruments) that may be issued by the county to pay for the cost of establishment and construction of a project. First of all, it should be said that not every project requires the sale of bonds. The drainage system account may have enough funds in it to pay for the project. Failing that, the drainage system account may borrow excess funds from other drainage system accounts or from county general revenue.⁹⁵⁵ Interest on such borrowed funds is computed at the rate of 7 percent per year for the time the money is actually needed and is paid from the assessments of the drainage systems or from the later sale of drainage funding bonds.⁹⁵⁶

All drainage bonds are of the general obligation variety. That means that the full faith and credit of the drainage authority is pledged in support of payment of interest and principal coming due on the bonds. The drainage authority, through the county, in effect, uses its taxing authority to assure bondholders.

The public drainage code authorizes a variety of bonds:

1. *Temporary drainage bonds* are used to finance ongoing construction when the project takes more than a year to complete. The bonds have a two-year maturity or less and may be called at any time without a premium. That is, the county could sell the regular “permanent” drainage bonds and pay off the temporary bonds (the county could replace the temporary bonds with definitive drainage bonds).⁹⁵⁷
2. *Definitive drainage bonds* are issued solely for the purpose of replacing the temporary drainage bonds. The only difference between a definitive drainage bond and a regular drainage bond is

that the definitive bond is designed to be numbered and mature serially at times and in amounts to allow the principal and interest to be paid when due by collection of assessments levied for drainage systems financed by issuance of temporary drainage bonds.⁹⁵⁸

3. *Drainage funding bonds* are general obligation bonds used to cover a cash flow shortfall in one or more drainage system accounts or common drainage redemption fund to meet current principal and interest obligations and those due within one year.⁹⁵⁹ They should, by their nature, be of relatively short term, and no more than two to five years in maturity.
4. *Drainage bonds* are the “garden variety” permanent general obligation bond used to pay the cost of establishing and constructing the project when temporary drainage bonds were not used.⁹⁶⁰ The term of a drainage bond may not exceed 23 years and is payable annually or semiannually.⁹⁶¹

Bonds are paid by the assessments against the property benefitted in a drainage system.⁹⁶² The terms of the permanent bonds should be calculated so as to correspond to the cash flow generated by the assessments. While practices vary, the permanent drainage bonds are usually callable on notice. That means that the county can pay them off early, sometimes by issuing another bond issue when interest rates have become more favorable.

The drainage authority should have a bonding consultant to assist in the bonding process. Quite often, small projects can be combined into a single drainage bond issue.⁹⁶³ The technical aspects of arranging the bond sale are handled by the bond consultant. The bond consultant works closely with the county auditors who provide the financial information that goes into the prospectus accompanying the bond sale. The bond consultant solicits bids from investment bankers whom the consultant knows will be interested in marketing this type of issue.

At the letting, the bond consultant helps the drainage authority to decide which bid is the most favorable to the drainage authority. The successful bidder then buys the entire issue and markets it to the public at retail. There is a significant demand for county general obligation bonds at all times because of their relative safety and because they are exempt from federal and state income tax.

The bond consultant arranges for bond counsel. The bond counsel issues the legal opinion that renders the bonds salable.

FOOTNOTES

⁹⁵⁵ Minn. Stat. § 103E.655, subd. 2 (2015).

⁹⁵⁶ Minn. Stat. § 103E.635, subd. 11 (2015).

⁹⁵⁷ Minn. Stat. § 103E.635, subd. 5 (2015).

⁹⁵⁸ Minn. Stat. § 103E.635, subd. 6 (2015).

⁹⁵⁹ Minn. Stat. § 103E.641, subd. 2 (2015).

⁹⁶⁰ Minn. Stat. § 103E.635, subds. 1–4 (2015).

⁹⁶¹ Minn. Stat. § 103E.635, subds. 4(a)(1) & (3) (2015).

⁹⁶² Minn. Stat. § 103E.635, subd. 11 (2015).

⁹⁶³ Minn. Stat. § 103E.635, subd. 2 (2015).

C. Accounting

1. Duties of County Auditor or Watershed District Secretary

The county auditor is the keeper of the financial records. The auditor is charged by statute to keep a separate set of accounts for each drainage system.⁹⁶⁴ Each drainage system is regarded as a separate entity for accounting purposes, with a full set of financial accounts. The proceeds of the sale of bonds and all interest, lien payments, assessments, and other sources of proceeds (such as outlet charges, liquidated damages, and bond forfeitures) are deposited in the drainage system cash account and entered in its expenditure accounts.⁹⁶⁵ All expenses of establishment and construction of the system or project are paid from that drainage system account.⁹⁶⁶

2. Drainage System Repair Fund

There is statutory authority for the maintenance of yet another account for each system called a "drainage system repair fund."⁹⁶⁷ The purpose of the drainage system repair fund is to segregate funds that are levied for repairs from other funds accumulated in the drainage system account. The drainage system repair fund may not exceed 20 percent of the assessed benefits for the entire drainage system or \$100,000, whichever is greater.⁹⁶⁸

Once a year the auditor should prepare a financial report showing the financial condition of all drainage system accounts and, if applicable, drainage system repair funds. The report should be presented at an annual drainage system maintenance levy hearing. Notice of the hearing should be published as a legal notice.

At the hearing, each system should be considered as to whether any repair work is anticipated in the next 18 months. The auditor should have prepared a minimum levy recommendation which would bring all the systems into a positive fund balance condition. If this practice is scrupulously followed, the accounts may be maintained in a positive condition by annual assessments. One-year assessments do not have to be recorded as liens, thereby eliminating a great deal of work and avoiding the extra entries on the real estate records in the county recorder's office.

When a lien is required, the principal amount of future levies should be entered in that drainage system's account called "special assessments receivable - deferred," and also in the "deferred revenue" account. As each year's levy is added to the tax rolls, these two accounts are reduced by the amount of principal. A lien is recorded and a copy placed in the ditch lien record. After all the parcels have paid in full, a blanket ditch lien release is prepared and recorded.

3. Investment of Excess Funds

If a drainage system account or the common drainage bond redemption fund has a surplus over the amount required for payment of obligations presently due and payable from the account or fund, the board may invest any part of the surplus in bonds or certificates of indebtedness of the United States or of the state.⁹⁶⁹

4. Loans

If a drainage system account becomes insolvent, the drainage authority may, by unanimous resolution of its board, borrow funds from any other drainage system account under its jurisdiction or if the drainage authority is a county, from the county general fund, or if the drainage authority is a watershed

district, from its administrative funds.⁹⁷⁰ Interest on the loan is computed for the time that the money is actually needed and at the rate per year charged on drainage liens.⁹⁷¹

The drainage authority may also use funds from any available funds in the county treasury to make payments on drainage bonds, temporary drainage bonds, and definitive drainage bonds.⁹⁷² In such case, the interest is computed at the rate of 7 percent for the time the money is actually used.⁹⁷³

FOOTNOTES

⁹⁶⁴ Minn. Stat. § 103E.651, subd. 2 (2015).

⁹⁶⁵ Minn. Stat. § 103E.651, subd. 2 (2015).

⁹⁶⁶ Minn. Stat. § 103E.655, subd. 1 (2015).

⁹⁶⁷ See Minn. Stat. § 103E.735 (2015).

⁹⁶⁸ Minn. Stat. § 103E.735, subd. 1 (2015).

⁹⁶⁹ Minn. Stat. § 103E.651, subd. 3 (2015).

⁹⁷⁰ Minn. Stat. § 103E.655, subd. 2 (2015).

⁹⁷¹ Minn. Stat. § 103E.655, subd. 2 (2015).

⁹⁷² Minn. Stat. § 103E.635, subd. 11 (2015).

⁹⁷³ Minn. Stat. § 103E.635, subd. 11 (2015).

D. Funding of Watershed Districts and Projects

1. Assessments and Levies

Watershed districts do not have the power to tax. Watershed districts are dependent upon the county's power to levy assessments on the real property of the county. Also, watershed districts do not have the power to issue bonds to pay for drainage projects. Except for contractual participation by state and federal governments, all funds available to a watershed district are levied and collected by the respective county boards.⁹⁷⁴

2. Funds of the Watershed District

The board of managers of a watershed district is required to maintain several separate funds for district purposes:

1. Organizational expense fund. The counties may levy a one-time levy of 0.01596 percent of taxable market value of property within the watershed district for organizational expense and preparation of a watershed management plan.⁹⁷⁵ The fund may not exceed \$60,000.⁹⁷⁶

2. General fund. This is an ad valorem levy not exceeding 0.048 percent of taxable market value, or \$250,000, whichever is less, to be used for general administrative expense and for the construction or implementation and maintenance of projects of common benefit to the watershed district.⁹⁷⁷

3. Bond fund. A watershed district may issue bonds, secured by property owned by it, whose proceeds are to be used to buy more property. These funds are not available for drainage projects per se but may be involved in water management.⁹⁷⁸

4. Construction or implementation fund. This fund is the equivalent of the drainage system account in the drainage code.⁹⁷⁹ Each system and each drainage project, which does not include repairs, must have one.

5. Preliminary fund. Funds authorized to be used on proposed works of the watershed district.⁹⁸⁰

6. Repair and maintenance funds. Each system is to have a repair and maintenance fund, funded in the same manner as under the drainage code.⁹⁸¹

7. Survey and data acquisition fund. This fund may be established and used to pay for making necessary surveys and for acquisition of data. Watershed districts may cause a county(ies) to levy up to 0.02418 percent of taxable market value of the watershed district once every five years, and the balance of the fund is not to exceed \$50,000. Survey costs are recoverable as costs when project is constructed.⁹⁸²

FOOTNOTES

⁹⁷⁴ See Minn. Stat. § 103D.901 (authorizing a watershed district to file assessment statements with the county for levy and collection).

⁹⁷⁵ Minn. Stat. § 103D.905, subd. 2(a) (2015).

⁹⁷⁶ Minn. Stat. § 103D.905, subd. 2(a) (2015).

⁹⁷⁷ Minn. Stat. § 103D.905, subd. 3 (2015).

⁹⁷⁸ Minn. Stat. § 103D.905, subd. 4 (2015).

⁹⁷⁹ Minn. Stat. § 103D.905, subd. 5 (2015).

⁹⁸⁰ Minn. Stat. § 103D.905, subd. 6 (2015).

⁹⁸¹ Minn. Stat. §§ 103D.905, subd. 7 & 103D.631, subd. 2 (2015).

⁹⁸² Minn. Stat. § 103D.905, subd. 8 (2015).