

more votes may be filed and no person may withdraw a vote. Any withdrawal of a vote concerning the proposed project before that time must be in writing. When the votes have been filed and the deadline for filing votes has passed, the board shall immediately determine whether the project is approved. If the board finds that fifty percent or more of the total votes filed are against the proposed project, then the vote constitutes a bar against proceeding further with the project. If the board finds that the number of votes filed against the proposed project is less than fifty percent of the votes filed, the board shall issue an order establishing the proposed project and may proceed, after complying with the requirements of sections 61-16.1-21 and 61-16.1-22, to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in title 40 for the construction of sewers within municipalities. The board may enter into an agreement with any federal or state agency under the terms of which the contract for the project is to be let by the federal agency, the state agency, or a combination thereof. In projects in which there is an agreement that a party other than the board will let the contract, the board may dispense with all of the requirements of title 40. Upon making an order establishing or denying establishment of a project, the board shall publish notice of the order in a newspaper of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located. Any right of appeal begins to run on the date of publication of the notice. As used in this section, "board" means water resource board.

#### **61-16.1-20. Voting right or powers of landowners.**

In order that there may be a fair relation between the amount of liability for assessments and the power of objecting to the establishment of a proposed project, the voting rights of affected landowners on the question of establishing the project are as provided in this section. The landowner or landowners of tracts of land affected by the project have one vote for each dollar of assessment that the land is subject to or one vote for each dollar of the assessed valuation of land condemned for the project, as determined in accordance with title 57. The governing body of any county, township, or city to be assessed also has one vote for each dollar of assessment against such county, township, or city. There may be only one vote for each dollar of assessment, regardless of the number of owners of such tract of land. Where more than one owner of such land exists, the votes must be prorated among them in accordance with each owner's property interest. A written power of attorney authorizes an agent to protest a project on behalf of any affected landowner or landowners.

#### **61-16.1-21. Assessment of cost of project.**

Whenever the water resource board proposes to make any special assessment under the provisions of this chapter, the board, prior to the hearing required under section 61-16.1-18, shall inspect any and all lots and parcels of land, which may be subject to assessment and shall determine from the inspection the particular lots and parcels of lands which, in the opinion of the board, will be especially benefited by the construction of the work for which the assessment is made and shall assess the proportion of the total cost of acquiring right of way and constructing and maintaining such improvement in accordance with benefits received but not exceeding such benefits, against:

1. Any county, township, or city, in its corporate capacity, which may be benefited directly or indirectly thereby.
2. Any lot, piece, or parcel of land which is directly benefited by such improvement.

In determining benefits the board shall consider, among other factors, property values, degree of improvement of properties, productivity, and the water management policy as expressed in section 61-16.1-15. Property belonging to the United States shall be exempt from such assessment, unless the United States has provided for the payment of any assessment which may be levied against its property for benefits received. Benefited property belonging to counties, cities, school districts, park districts, and townships shall not be exempt from such assessment and political subdivisions whose property is so assessed shall provide for the payment of such assessments, installments thereof, and interest thereon, by the levy of taxes according to law. Any county, township, or city assessed in its corporate capacity for benefits received shall provide for the payment of such assessments, installments thereof, and interest

thereon from its general fund or by levy of a general property tax against all the taxable property therein in accordance with law. No tax limitation provided by any statute of this state shall apply to tax levies made by any such political subdivision for the purpose of paying any special assessments made in accordance with the provisions of this chapter. There shall be attached to the list of assessments a certificate signed by a majority of the members of the board certifying that the same is a true and correct assessment of the benefit therein described to the best of their judgment and stating the several items of expense included in the assessment.

**61-16.1-22. Assessment list to be published - Notice of hearing - Alteration of assessments - Confirmation of assessment list - Filing.**

After entering an order establishing the project, the water resource board shall cause the assessment list to be published once each week for two successive weeks in the newspaper or newspapers of general circulation in the district and in the official county newspaper of each county in which the benefited lands are located together with a notice of the time when, and place where, the board will meet to hear objections to any assessment by any interested party, or an agent or attorney for that party. The board also shall mail a copy of the notice to each affected landowner at the landowner's address as shown by the tax rolls of the county or counties in which the affected property is located. The date set for the hearing may not be less than twenty days after the mailing of the notice. At the hearing, the board may make such alterations in the assessments as in its opinion may be just and necessary to correct any error in the assessment but must make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which the assessments are made, or the part of the cost to be paid by special assessment. An assessment may not exceed the benefit as determined by the board to the parcel of land or political subdivision assessed. The board shall then confirm the assessment list and the secretary shall attach to the list a certificate that the same is correct as confirmed by the board and shall file the list in the office of the secretary.

**61-16.1-23. Appeal to state engineer.**

After the hearing provided for in section 61-16.1-22, affected landowners and any political subdivision subject to assessment, having not less than twenty-five percent of the possible votes, as determined by section 61-16.1-20, who believe that the assessment had not been fairly or equitably made, or that the project is not properly located or designed, may appeal to the state engineer by petition, within ten days after the hearing on assessments, to make a review of the assessments and to examine the location and design of the proposed project. Upon receipt of such petition the state engineer shall examine the lands assessed and the location and design of the proposed project, and if it appears that the assessments have not been made equitably, the state engineer may proceed to correct the same, and the state engineer's correction and adjustment of said assessment is final. Should it appear that, in the judgment of the state engineer, the project has been improperly located or designed, the state engineer may order a relocation and redesign. Such relocation and redesign must be followed in the construction of the proposed project. Upon filing a bond for two hundred fifty dollars with the board for the payment of the costs of the state engineer in the matter, any landowner or political subdivision who or which claims that the landowner or political subdivision will receive no benefit at all from the construction of a new project may appeal to the state engineer within ten days after the hearing on assessments, the question of whether there is any benefit. The state engineer may not determine the specific amount of benefit upon an appeal by an individual landowner or political subdivision, but shall only determine if there is any benefit to the landowner or political subdivision, and the determination of the state engineer upon such question is final.

**61-16.1-24. When assessments may be made.**

After the requirements of this chapter have been satisfied and a contract and bond for any work for which a special assessment is to be levied have been approved by the water resource board, the board may direct special assessments to be levied for the payment of appropriate costs, and the secretary shall certify to the board the items of total cost to be paid by special