

262.778 Resolution for project -- Notice, hearing -- Election -- Declaratory judgment or injunction suit, time for -- Issuance of bonds -- Levy.

- (1) Upon determination by the board of directors of a watershed conservancy district that a watershed project is necessary, and upon approval of the plans for same by the board of supervisors, the board of directors shall adopt a resolution which shall set out:
 - (a) A description of the project in general terms;
 - (b) A list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010(7) with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits;
 - (c) The total cost of the project; and
 - (d) The fact that the cost shall be met by a bond issue payable solely from annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one (1) year a sum per acre specified in the resolution, with the annual assessments to extend over a period of years specified in the resolution not to exceed thirty (30) years.
- (2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.
- (3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposed project as to whether said project should be undertaken, and the scope thereof, or the propriety of placing their lands in the project area or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the project should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost of the project. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).
- (4) The board of directors shall prepare to be presented to the voters the question: "Should the assessment proposed by resolution of the Watershed Conservancy District be adopted?". Voters shall be instructed to vote "yes" or "no." Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee vote. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.

- (5) If a majority of those voting upon the proposition favor the assessment, the board shall give due notice of the vote and the fact that bonds will forthwith be issued payable from special assessments. Any owner of property to be benefited by the project may, within forty (40) days after publication of such notice, file an action in the Circuit Court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney should represent the board of directors in upholding the validity of the proposed bond issue. After the lapse of time specified herein, all actions by owners of properties to be benefited shall be forever barred.
- (6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors shall by resolution authorize the issuance of bonds designated "watershed project assessment bonds," determining the principal amount thereof and establishing the denominations and maturity dates thereof and shall levy an annual assessment effective only upon the benefited properties and based on the acreage thereof. The annual rate of such assessments shall be fixed when other taxes of the district are levied and shall be sufficient in each year to provide for the payment of such bonds and interest coupons as they mature and sufficient to provide a fund equal to twenty percent (20%) of the average annual principal and interest requirements, the same to constitute a "debt service reserve" as a precaution against possible default by failure to collect annual levies. The bonds shall state on their face that they do not constitute a debt of the district but are payable solely from collection of special assessments made upon benefited lands lying in the watershed conservancy district.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 51, sec. 8, effective June 26, 2007. -- Amended 1982 Ky. Acts ch. 360, sec. 83, effective July 15, 1982. -- Amended 1966 Ky. Acts ch. 23, sec. 74. -- Created 1964 Ky. Acts ch. 116, secs. 3 and 4.