

CHAPTER 61-11
DISSOLUTION OF IRRIGATION DISTRICTS

61-11-01. Petition to board of directors for dissolution of district - Requirements - Adoption of resolution calling special election.

Whenever the electors of an irrigation district owning a majority of the number of acres [hectares] of irrigable land therein shall petition the board to submit to the electors of the district at a special election, or at the next regular election of the district, the question of the dissolution or discontinuance of such irrigation district, and the sale of its property, the board, if the district has no outstanding or unpaid bonds or district improvement warrants, or if the holders of district bonds or district improvement warrants consent thereto in writing, shall adopt a resolution calling a special election or providing for the submission of such question to the electors at the next regular district election.

61-11-02. Notice of election for dissolution of district - Publication.

Notice that the question of the dissolution of the district and the sale of the district property as provided in section 61-11-01 will be submitted to the vote of the electors at a special election or at the next general district election, as the case may be, shall be given in the manner provided for a regular election of the district.

61-11-03. Ballots to be provided - Form.

The board shall provide printed ballots for an election held pursuant to the provisions of this chapter. Such ballots shall be substantially in the following form:

The irrigation district of _____ County, North Dakota, shall be dissolved and its property sold:

Yes

No

The board shall cause such ballots to be prepared at least fifteen days before the election and shall place the ballots in the hands of the election officers of the district prior to the opening of the polls on the day of such election.

61-11-04. Conduct of election - Canvassing and reporting result of election.

An election on the question of dissolution in all respects must be conducted, and the votes canvassed, in the same manner as provided for a regular election of the district. A certified copy of the statement of the election result by the district's board of directors and all ballots, lists, tally sheets, and other documents pertaining to the election must be forwarded to the department of water resources by registered or certified mail or express.

61-11-05. Procedure when election favors dissolution - Notice to file claims against district - What claims barred.

If a majority of the votes cast at the election are in favor of dissolving the district, the board shall cause to be published in the newspaper or newspapers of general circulation where the district is located, and in the official newspaper of each county in which the district is located, a notice to the creditors of the district, except holders of district bonds or district improvement warrants, requiring any person having a claim against the district to submit and file such claim with the secretary of the board within one year after the first publication of the notice, at the place specified in such notice. The notice shall be published as many times as the board shall direct, but not less than once each week for three consecutive weeks. The secretary of the district shall mail, or cause to be mailed, by registered or certified mail, a copy of such notice to each creditor, except any holder of district bonds or district improvement warrants, known to the secretary or of record in the secretary's office. After such notice is given, a copy thereof with the affidavit of publication and affidavit of mailing shall be filed in the office of the secretary of the district. Any claim not thus presented, except any claim of a holder of district bonds or warrants, shall be barred forever against such district and against all officers thereof or property therein.

None of the provisions of this chapter shall be construed to limit or impair the rights of owners or holders of district bonds or district improvement warrants.

61-11-06. Vote against dissolution of district - Subsequent election for dissolution not to be held for one year.

If a majority of the votes cast at the election are against dissolving the district and selling the property thereof, no subsequent election upon the question of dissolution of the district shall be held until after the expiration of at least one year.

61-11-07. Resolution of dissolution when election favors dissolution - Officers and board to act until obligations settled.

If a majority of the votes cast at the election are in favor of dissolving the district, the board, in its resolution declaring the result of the election, shall declare that the district will be dissolved when the obligations of the district have been paid fully. The board and other officers of the district shall continue to act and function until the property and assets of the district have been disposed of in conformity with the provisions of this chapter and until all obligations of the district have been settled and paid.

61-11-08. Sale of district property authorized - Appraisers appointed - Oath - Compensation.

If a majority of the votes cast at an election for dissolution of a district favor dissolution and sale, the irrigation works, franchises, and other property of the district may be sold at not less than a valuation determined by a board of three appraisers. One member of the board of appraisers must be appointed by the board of directors of the district, one must be appointed by the director of the department of water resources, and the two appointed appraisers shall choose the third appraiser. The board of appraisers must be sworn by an officer who is authorized to administer oaths and who has an official seal. The board shall appraise the irrigation works, franchises, and all other property of the district at their cash value, and, with the consent of the board of directors of the district, may employ engineers, accountants, and other expert assistance as necessary. The board of directors shall fix the compensation of the appraisers, engineers, accountants, and others.

61-11-09. Appraisal of property by appraisers - Report to board - Advertising property for sale - Opening of bids.

The board of appraisers shall appraise all the property of the district and make a report of the appraisal to the board of directors. A copy of the report must be filed by the secretary of the district with the department of water resources. The board of directors shall advertise for sale all the property of the district and publish a notice once each week for two consecutive weeks specifying that sealed bids will be received, opened, and considered by the board at the time and place specified in the notice, and describing the property. At the time and place designated in the notice, or as soon after the time as the board can meet, the board shall open and consider all bids received for the purchase of the property, and the board may reject bids which do not, in the judgment of the board, offer a fair and just consideration.

61-11-10. Private sale of property of district - When permitted - Terms - Proceeds of sale.

If all bids are rejected, the board, by private negotiation, may sell and convey the property or any part thereof for cash at not less than the appraised value thereof, or may agree to sell and convey the property at not less than the appraised value for part cash and part in deferred payments bearing interest at such rate as shall be agreed to mutually between the board and the purchaser. The title to any property so sold shall remain in the district until the purchase price thereof has been fully paid. All moneys realized from the sale of the property shall be deposited with the county treasurer designated as the custodian of district funds, and such moneys shall be paid out only upon warrants duly authorized by the board and signed by the chairman and secretary thereof.

61-11-11. Sale or transfer of property authorized.

In carrying out the provisions of this chapter, for the discontinuance of an irrigation district and the sale of its property and assets, the board may sell, transfer, and convey all of the irrigation works, franchises, and other property owned by the district to the purchaser thereof.

61-11-12. Liquidation of district indebtedness.

After the sale of the property and franchises of an irrigation district, the board, with the moneys realized from such sale together with such other funds as such district may have, shall make settlement, payment, and redemption of all outstanding bonded or other indebtedness of the district, but in no case shall such board pay more than the par value of outstanding bonds or warrants, as the case may be, with interest up to the time of payment. If the amount realized from the sale of such district property, together with other moneys of the district, shall be insufficient for the payment of all the indebtedness of the district, such district shall not be dissolved or discontinued until such indebtedness is fully paid, and assessments shall continue to be made against the lands in the district in the manner provided by law for the levy of assessments to pay bonds and other indebtedness of irrigation districts until a sufficient amount is raised to pay in full all obligations of such district.

61-11-13. Sale does not affect vested water rights.

The sale of the irrigation works, franchises, and property of an irrigation district shall not affect or impair vested water rights, and the right to the use of water acquired under the laws of this state shall be assigned to the purchaser of the irrigation works of the district or to the individual electors of the district in accordance with section 61-04-15. Chapter 61-04 governs all water permits and water rights acquired by an irrigation district, including any water permits or water rights which may be assigned by an irrigation district.

61-11-14. Sale does not affect or release assessment liens - Duty of county treasurer.

The sale of the property and franchises of an irrigation district shall not affect or release the lien of any assessment made by the district upon the lands therein, and such lien shall not be removed until such assessment is paid or the property sold for the payment thereof. The county treasurer shall collect any such assessment in the manner provided by law for the collection of the assessments of an irrigation district, and the laws of the state for the collection and sale of land for taxes shall continue to be applicable to the collection of any such assessments.

61-11-15. Report of dissolution when - Where filed - Contents - Recording of in office of recorder.

After all the property of an irrigation district is disposed of upon dissolution and all the obligations of the district are paid, the directors of the district shall file in the office of the county auditor of each county in which the district is situated, and in the department of water resources, a report signed by the chairman of the board and attested by the secretary, and bearing the seal of the district, stating the district has disposed of its property and franchises, all of the obligations of the district have been paid fully, and the district has been disorganized and dissolved. The report must be recorded in the miscellaneous records of the recorder in each of the counties in which the district is located, and from and after the filing and recording, the irrigation district is deemed dissolved.

61-11-16. Surplus moneys of district - Disposal.

If a disorganized irrigation district shall have moneys in its treasury after the payment of all the debts and obligations of the district, such moneys shall be apportioned and paid to each landowner, who has paid fully all assessments against that landowner's land in the proportion which the last assessment of such owner's land bears to the total of all assessments last made, levied, and assessed against all lands in the district.