

Appendix 3: Holeman Memo

NOTICE: WHAT FOLLOWS IS A GENERAL SURVEY ONLY OF MANY (BUT NOT ALL) OF THE STATUTES CONCERNED WITH FORMATION AND OPERATION OF KANSAS DRAINAGE DISTRICTS AND WATERSHED DISTRICTS. IT IS NOT INTENDED TO BE LEGAL ADVICE, BUT REPRESENTS MATERIAL FOR GENERAL INFORMATIONAL PURPOSES ONLY. Clancy Holeman, Riley County Counselor, 11-17-11

I. Drainage Districts—Formation.

A. Ordinarily, formed by petition to BOCC. (K.S.A. 24-401)

1. Signed by either owners of 51% of the land or by 2/5 of the landowner's resident within the proposed district. (K.S.A. 24-404)
2. Petition must describe boundaries of the proposed district "and state that the lands and property therein embraced are subject to injury and damage from the overflow of some natural watercourse...that the improvement of the channel of such watercourse, the construction and maintenance of levees, drains or other works, including detention dams and reservoirs, are necessary to prevent such overflow; and that such improvement or works will be conducive to the public health, convenience, or welfare." (K.S.A. 24-403)

B. When presented with petition BOCC must take following actions:

1. Set a public hearing after one published notice. (K.S.A. 24-404)
2. At that public hearing, if you find notice of the hearing complied with the statutory requirements and the petition meets the statutory requirements "and that the allegations thereof are true," you create the drainage district according to the boundaries set out in the petition. (K.S.A. 24-405)
3. If you have formed such a drainage district under K.S.A. 24-404 et seq., your next statutory obligation will be to "fix the time and place of holding the first election to choose such officers of such drainage district...and designate five taxpayers residing within said district, three to act as judges and two to act as clerks of such election... ." (K.S.A. 24-406)
4. By five days following creation of the district, the Riley County Clerk must deliver a "certified list of the qualified electors to one of the appointed judges. (K.S.A. 24-411) Such "qualified electors" are defined within that same statute. (Voters in that election must be both taxpayers and residents of the proposed district, and the cost of the election is paid from the general fund of the district.) (K.S.A. 2010 Supp. 24-414)
5. The district board must meet at least annually and must adopt and publish a resolution setting out the location and time of all its regular meetings. (K.S.A. 24-416) The chair or member of the district board may call meetings, and all such meetings are open to the public. **The district board has no authority to hold executive sessions.**

II. Drainage Districts—Powers.

A. All district powers are exercised by its 3-member elected board of directors. (K.S.A. 2010 Supp. 24-409) Each director must be an owner of land located within the district boundaries and a resident of Riley County. (K.S.A. 2010 Supp. 24-409 contains exceptions to these director and land ownership requirements which do not appear relevant here.)

B. **There is no statutory provision allowing dissolution of a drainage district. Once created, a drainage district is a legal entity which will exist permanently.** A drainage district has “perpetual succession” and is a “public corporation.” (K.S.A. 24-405)

C. The powers of a drainage district are extensive, to put it mildly. Such district has authority to: sue and be sued; **“exercise exclusive control of all natural watercourses within the district”**; “widen, deepen, establish, regulate and maintain the channels” of those watercourses; build levees, detention dams and reservoirs on the banks of those watercourses and in areas adjacent to them, if “necessary to prevent or restrain overflow or lessen the volume” of such overflow; purchase and operate pumps; “alter, change or abandon the channel or any part of the channel of any natural watercourse and relocate or excavate and establish a new channel for such watercourse or any part thereof located within the district;” **exercise eminent domain**; remove “obstructions” from such watercourses; **regulate the height, length and location of piers for all bridges** over such watercourses; construct levees across the rights-of-way of railroads; **“regulate and change the grade of all public highways...where any levee may cross or intersect”** such highways; **sue for injunctive relief** to enforce the “reasonable orders” of board of directors, including prohibiting placement of unauthorized bridges or other structures which are an obstruction in the channel of watercourses, and to have them removed as public nuisances; **“To annually levy a tax not exceeding five mills on the assessed value of all tangible taxable property within the district to create a general fund.”** (K.S.A. 2010 Supp. 24-407) Further, the district board may also: levy special assessments to pay for construction and maintenance of levees and other improvements “to prevent the overflow of natural watercourses, or provide drainage of overflowed lands” in the district, or such improvements “that may be conducive to the public health, convenience or welfare”; **issue bonds** to pay the cost of “widening, deepening and otherwise improving the channels and constructing embankments, drains, levees and other works along the banks of natural watercourses, to pay the cost of constructing detention dams and reservoirs in areas adjacent to all such watercourse, **to pay for the purchase or condemnation of land necessary therefore** or to prevent overflow and protect the property located within the district from damage and injury thereby...; **“contract and cooperate with private corporations and individuals owning lands located outside of the district...which are subject to injury by overflow in common with lands located within the district;”** **“contract for and receive aid and contributions from the United States,** and from all public corporations the property within which will be benefited and with all private corporations and individuals whose property will be benefited by the improvement, whether the property is located within the district or within some other district or state;” “do all other acts necessary to carry out and execute the general powers granted under the provisions of K.S.A. 24-401 et seq., and amendments thereto, although not specially enumerated.” (No drainage district may alter or construct any dam without first “filing an application with the division of water resources of the Kansas department of agriculture... .”) (K.S.A. 2010 Supp. 24-409; emphasis added)

D. Once elected, the district’s board of directors are authorized to make a wide variety of drainage improvements: from widening or deepening the channel of “all natural watercourses within the district” to constructing “walls, embankments and levees to be constructed along the banks,” to making “such other improvements, including detention dams and reservoirs in areas adjacent to such watercourses...as may be deemed necessary to prevent the overflow of such watercourses or protect property from damage thereby,” to the “removal of obstructions from the channel.” (K.S.A. 2010 Sup. 24-418)

1. The district must not begin any such work without plans and specifications, along with a written cost estimate from an engineer appointed by the district. Those plans and estimate must be filed with the district’s secretary. **The cost of such projects is to be supplied by a general tax** on all taxable district property, and bonds in an amount up to 20% of the taxable property of the district may be issued. **But no such improvements can be made until first authorized in a vote of the district’s taxpayers at a special election.** (This same statute limits the ability of a drainage district to “remove, lower or injure” any existing dam build by any city for the purpose of storing

water for city residents. Neither can the district lawfully construct a ditch around or alongside such a dam, without filing an application with the division of water resources.)

2. Subject to the foregoing limitations of K.S.A. 2010 Supp. 24-418, the district board has **additional authority** to construct drainage improvements within its boundaries and to pay for those improvements by: issuing bonds paid by general taxes; or by levying special taxes or assessments. (K.S.A. 24-419)
 - a) The board has that additional authority if it determines it is necessary to “alter, change or relocate the channel or any part of the channel of any natural watercourse within the district.” (K.S.A. 24-421)
 - b) Before the district board can begin such construction or incur “liability of any kind,” it must have on file with its secretary a written cost estimate and description of the work planned, from a “competent engineer.” (K.S.A. 24-420)
 - 1) If the district board intends to issue bonds for the work, it must call a special election and obtain approval from the district members in advance of any such bond issuance.
 - 2) If, instead of bond issuance, the district board prefers to levy special assessments, it must appoint 3 residents of the district to inspect all land within the district which will be benefited by the proposed improvement. (K.S.A. 24-422)
 - a) Those residents must provide the district board with a report setting out for each property both its actual value and proposed special assessment.
 - b) If the proposed assessment of any tract exceeds 10% of its actual value, the district board must call a meeting of all taxpayers subject to the proposed assessment (K.S.A. 24-423)
 - c) A vote must be taken at that meeting as to whether the proposed assessments should be made. A majority vote of those voting at the meeting determines whether the special assessments can be made.

III. Drainage Districts—Enlargement.

- A. District may petition for enlargement of its boundaries. (K.S.A. 24-463)
 1. Subject to K.S.A. 19-270, which requires BOCC hold a hearing and take testimony from any city, township, county or regional planning commission with jurisdiction over the affected area.
 2. BOCC obligated to “investigate such petition and ascertain whether it is in conformity with the provisions of ... act.” (K.S.A. 24-463)
 - a) Petition must describe area proposed to be annexed and that area proposed to be added is “subject to injury and damage from the overflow of some natural watercourse...that the improvement of the channel of such watercourse, the construction and maintenance of levees, drains, ditches, dikes, jetties, riprap or other works are necessary to prevent such overflow;; and that such improvement or works will be conducive to the public health, convenience or welfare....” (K.S.A. 24-464)
 - b) Must be signed by not less than 2/5 total taxpayers within both the original district and the proposed additional area, **or by all directors of the original district.** (K.S.A. 24-465)

- 1) BOCC must set public hearing on the petition and publish notice
- 2) If petition signed by number in excess of 2/5 of total number taxpayers residing in proposed area of extension, no petition from taxpayers residing in original district is necessary.
- 3) During hearing BOCC hears testimony and determines if signers qualified—shall approve petition if those formalities are met and “it is found...that the allegations thereof are true.” (K.S.A. 24-466)
- 4) “No territory within any incorporated city located in a county having an assessed tangible valuation of more than \$150,000,000 shall be included...unless the consent of the governing body of such city...shall first be obtained.” (K.S.A. 24-466)

B. Drainage district may exercise its power of eminent domain outside district boundaries.
(K.S.A. 2010 Supp. 24-467)

1. If directors deem necessary to “construct any ditch, levee, dike, jetty, riprap or other protective structure across or upon the land of any individual or corporation whether within or outside the territorial limits of the drainage district...” they may do so, as provided immediately below.
2. “Whenever it shall be deemed necessary to appropriate any private property for use by the district in widening, deepening or otherwise improving any natural watercourse to prevent the overflow thereof or for the construction of any ditch, dike, levee, jetty, riprap, canal, drain or other work, the board of directors ‘shall obtain a survey and description and survey of the required land from a licensed land surveyor or professional engineer.’”

IV. Watershed Districts—Petition to Secretary of State.

A. Ordinarily, formed by petition filed with secretary of state (K.S.A. 24-1203)

1. Signed by at least 20% of landowners and representing 25% of acreage within proposed district
2. “Watershed” defined as “all of the area within the state draining toward a selected point on any watercourse, stream, lake or depression.” (K.S.A. 2010 Supp. 24-1202(g))
3. Contents of petition. (K.S.A. 2010 Supp. 24-1204)
 - a) Description of lands to be included.
 - b) Statement of purposes.
 - c) Statement of number of persons on board of directors—uneven number not less than three and not more than 15—designated in petition as original steering committee.
 - d) Map showing lands to be included and any sub watersheds therein, **prepared in consultation with the chief engineer of the division of water resources of the Kansas department of agriculture.**
 - e) **If any part of an incorporated city is included within proposed boundaries of district, there must be election called by city of those qualified voters in area proposed to be included.** (K.S.A. 24-1205)
 - 1) If disapproved by voters, city land is excluded from district.

- 2) If approved by voters, city land is included within district.
4. Counterpart of petition must be circulated within proposed boundaries of district. (K.S.A. 24-1205)
 - a) Counterpart petition and signature sheets are forwarded to county clerk and secretary of state.
 - b) Secretary of state determines sufficiency and qualifications of signers.
 5. If secretary of state finds petition sufficient, forwards to chief engineer (K.S.A. 24-1206)
 - a) Chief engineer "shall institute an investigation of...proposed district, its territory and purposes and, within 90 days after receipt...shall transmit a written report of the chief engineer's findings on the petition....with the chief engineer's written approval or disapproval of the petition to the secretary of state and the acting chairperson of the steering committee named in the petition...."
 - b) Chief engineer must approve petition if finds and discloses in engineer's report all of the following (K.S.A. 24-1206):
 - 1) Lands in proposed district represent a watershed;
 - 2) Proposed district do not include land in existing watershed;
 - 3) Statement of purposes in petition conforms to act;
 - 4) Lands in proposed district are "subject to erosion, floodwater or sediment damage or would be benefited by the construction of works for the conservation, development, utilization or disposal of water;
 - 5) Boundary of district is defined, "as far as practicable, so as to include all quarter-quarter sections of which more than ½ of each is within the watershed;
 - 6) "Downstream limit of ...district is established with due regard to the location of highways and railroads and the location and character of existing works of improvement, the boundaries of any organized levee, drainage, irrigation and watershed districts, and the physical characteristics of and the probable relative effect of the operation of the proposed district upon any flood plane area common to both the stream or watercourse and any other stream or watercourse; and
 - 7) Map attached to petition conforms to the map "previously prepared in consultation with the chief engineer.
- B. Within 10 days of receipt of chief engineer's report approving petition, chair of steering committee calls meeting of committee. (K.S.A. 24-1207)
1. Steering committee elects board of directors consistent with number in petition.
 2. Board of directors selects from their number a president, vice-president, secretary and treasurer.
 3. Board of directors must, by resolution, call for election of the qualified voters of the district to submit question of whether district should be organized as set out in petition (as amended or revised by the chief engineer).

4. Board of directors must designate voting locations within district, and appoint three judges and two clerks for each voting place.
 5. Election returns are provided to the board of directors, who must canvass the votes.
 6. Election results are certified to the secretary of state.
 7. If majority of those voting approve, secretary of state shall issue to board of directors a certificate of incorporation for the district.
 8. No legal action may be filed challenging incorporation of district after 90 days from the issuance of secretary of state's incorporation.
- C. If voters in district disapprove organization of the district, or if chief engineer refuses to approve petition, board or directors or steering committee named in petition continues to function for following purposes (K.S.A. 24-1208):
1. Board or steering committee must determine amount necessary to pay all costs and expense incurred in the preparation an filing of petition and in conducting the election and certify statement of those costs to Riley County Clerk.
 2. County clerk must ascertain total assessed value of all taxable tangible property within district and certify that value to the county clerk of the county in which acting chair of the board of steering committee of the proposed district resides.
 3. County clerk must determine levy necessary to be spread against taxable tangible property in entire proposed district to raise funds sufficient to pay amount in certified statement.
 4. Clerk shall cause such levy to be extended against such taxable tangible property within boundaries of proposed district.
 5. Riley County Treasurer shall remit funds raised by such levy to county in which acting chair person of the board of steering committee resides.
 6. County treasurer shall hold such funds and honor warrants drawn upon them by acting chair of the board or steering committee and countersigned by acting secretary of the board of steering committee in payment of the costs and expenses incurred in the proposed organization of the district, as reflected in the certified statement.

V. Watershed Districts—Resolution by BOCC—an Alternative Formation Procedure.

- A. Watershed District may be formed by passage of a resolution by BOCC. (K.S.A. 24-1203a)
1. BOCC resolution has effect of “proposing the establishment of” a watershed district;
 2. BOCC resolution appoints a steering committee;
 3. BOCC resolution **must include at least same information required in an “ordinary” petition** as described above, at paragraph I.A.2., above, **but also the following requirements exist:**
 - a) Lands within the proposed district “comprise substantially a watershed...as determined by the chief engineer;”
 - b) In preceding 5 years, governor has issued a proclamation declaring state of disaster emergency in Riley County, due to flooding;

c) Cost of all projects of district must be paid by a general levy on all taxable property within district.

B. Language of this alternative formation procedure (K.S.A. 24-1203a) states it is **“In lieu of the procedures provided by K.S.A. 24-1203, 24-1204 and 24-1205.”** (emphasis added)

1. A key portion of K.S.A. 24-1205, as described above at paragraph IV.A.3.e, is that portion requiring “city” resident voter approval if the boundaries of a proposed district include any portion of an incorporated city.

2. The plain language of K.S.A. 24-1203a suggests the BOCC has authority, when forming a watershed district by resolution, to include land within the city limits of Manhattan without the requirement of obtaining approval from those city residents within the proposed district.

3. Another key distinction in the formation process under this “alternative” method is that there is no required circulation of a petition among the residents of the proposed district, since K.S.A. 24-1205 is inapplicable to watershed districts proposed directly by the BOCC.

4. K.S.A. 24-1203a’s language making this “alternative” formation procedure “in lieu of” 3 listed statutory provisions is far less important regarding K.S.A. 24-1203 and K.S.A. 24-1204.

a) K.S.A. 24-1203 concerns only signature requirements on a petition (a document the BOCC is not presented with in this “alternative procedure”)

b) K.S.A. 24-1204 concerns only additional formal requirements of such a petition.

C. If the BOCC passes a resolution proposing organization of a watershed district the remaining formation steps are almost identical to that begun by petition:

1. Since verification of “petition” signatures is unnecessary, upon passage of the resolution, it is transmitted directly to the chief engineer. (K.S.A. 24-1203a)

2. Chief engineer has the same duties and authorities when reviewing the resolution, as that engineer has when reviewing a petition (K.S.A. 24-1206; see IV.A.5.a), b), above).

3. Chair of steering committee has same duties and authorities upon receipt of the resolution approved (or as amended) from the chief engineer (K.S.A. 24-1207; see IV.B.1-8, above)

4. If voters in the proposed district disapprove organization of the district, or if chief engineer refuses to approve resolution, board of directors or steering committee named in the resolution continues to function for the purposes of assessing residents of the proposed district for the costs incurred (K.S.A. 24-1208; see IV.C.1-6, above).

VI. Watershed Districts—Powers.

A. Like drainage districts, watershed districts have extensive powers, probably best viewed in the language of the statute itself, K.S.A. 24-1209: Each watershed district incorporated under the provisions of this act shall be a body politic and corporate and shall have the power:

First. To adopt a seal.

Second. To sue and be sued by its corporate name.

Third. To purchase, hold, sell and convey land and personal property and to execute such contracts as may, by its board of directors, be deemed necessary or convenient to enable it to properly carry out the purpose for which organized.

Fourth. To construct, improve, maintain and operate works of improvement including such facilities and appurtenances as necessary for the conservation of soil, prevention of floods, disposal of water and the conservation, development and utilization of water for domestic, municipal, agricultural, industrial, recreational purposes and such other uses as may be authorized by the provisions of K.S.A. 82a-701 to 82a-725, inclusive, and any amendments thereto; and in any case where the construction, improvement or operation of such works causes the substantial displacement of a wildlife habitat and when required by the soil conservation service of the United States department of agriculture as a condition precedent to the release of federal funds for such works, to acquire land for the purpose of restoring such wildlife habitat. The power of eminent domain shall not be used for any such acquisition.

Fifth. To operate or lease any and all district properties and facilities associated with the use of water and to collect reasonable fees, rentals, tolls, and charges for the use of such facilities, said revenue to be placed in the maintenance fund of the district. Where the property is leased the lessee or anyone authorized to collect such fees, rentals, tolls and charges shall conform to a schedule approved by the board of directors of the district.

Sixth. To employ such professional services and other assistance as is, by its board of directors, deemed essential. Soil conservation engineering services may be used whenever available.

Seventh. To acquire personal property by gift or purchase.

Eighth. To acquire land and interests in land by gift, purchase, exchange or eminent domain; such power of eminent domain to be exercised within or without the boundaries of the district in like manner as provided by K.S.A. 26-501 to 26-516, inclusive, or any amendments thereto.

Ninth. To levy taxes and assessments, issue bonds and incur indebtedness within the limitations prescribed by this act.

Tenth. To cooperate and contract with persons, firms, associations, partnerships and private corporations, and with other watershed districts, drainage districts, and cities of all classes of this state, and with drainage districts, watershed districts, or other public corporations organized for similar purposes in any adjoining state and with other local, state and federal governmental agencies and to enter into co-operative contracts and agreements with any such districts, corporations or agencies.

Eleventh. (a) To take appropriate actions to extend and transfer the territory of the district, receive territory transferred from other districts, and dissolve all or a portion of the district as provided for in this act; (b) to merge with adjoining watershed districts, subject to approval of a majority of the qualified voters voting on the proposition in each of the districts proposing to merge.

Twelfth. To select a residence or home office for the watershed district, which shall be at a place in a county in which the watershed district or any part thereof is located and may be either within or without the watershed district as may be designated by the board of directors. The board shall thereupon designate the county in which said residence or home office is located as the official county for the filing of all official acts and levies. After an official county has been so designated, said county designation shall not be changed even though the residence or home office of said watershed district may be changed at a later date.

B. All watershed district powers are exercised by its board of directors (K.S. A. 24-1210). Each member

serves term of 3 years. They “shall serve without compensation, but shall be allowed actual and necessary expenses incurred in the performance of their duties.”

1. Not less than 12 nor more than 13 months from the date of recording of the certificate of incorporation, must hold its first of **at least annual** meetings—purpose of such meetings being to elect board members whose terms are ending and to “render a report on the financial condition and activities of the district, including the estimated construction date of all proposed projects to be initiated within the next five years and the boards’ determination as to whether each of these projects is still cost effective and in the current public interest.” (K.S.A. 24-1211)
2. Board must also meet at least quarterly. (K.S.A. 24-1212) Majority of directors shall qualify as a quorum, “and in the absence of any of the duly elected officers of the district a quorum at any meeting may select a director to act as such officer pro tem.” All meetings of the board shall be open to the public. Copies of minutes shall be provided to the state conservation commission.

C. Initial Expenses of the Watershed District. (K.S.A. 24-1219)

1. Board of directors may issue “no-fund warrants to pay for initial organizational, engineering, legal and administrative expenses of the district,” provided amount issued “shall not exceed the product of two mills times the assessed valuation of the taxable tangible property within the district.” Board must levy “at the first tax levying period, after such warrants are issued, sufficient to pay such warrants and interest.”
2. Following its incorporation, board may levy tax of not more than two mills to “create a general fund for the payment of engineering, legal, clerical, land and interests in land, installation maintenance, operation and other administrative expenses and such tax may be against all of the taxable, tangible property of the district.”
3. Board may increase that levy by resolution up to a total of four mills. That resolution for an increased levy must be published and is subject to protest petition.
4. Board may establish a “structure maintenance fund.” “The fund shall consist of moneys deposited therein from funds received according to provisions of the watershed district law. Money in that fund may be used for “engineering, reconstruction and other required maintenance and other expenses relating to the maintenance of a structure.”
5. If improvement bonds are issued, board has authority to levy tax “sufficient to pay such bonds and interest.”

D. Projects of Watershed Districts.

1. General Plan. (K.S.A. 24-1213)
 - a) Upon incorporation, board must begin preparing a “general plan of the district.”
 - b) Must also prepare an estimate of cost for installation, maintenance and operation of the proposed projects “and information as to the location and extent of areas that would be benefited by the proposed” projects.
 - c) Once general plan and estimates of costs completed, board must examine and, if board approves of them, transmit “a complete copy...to the chief engineer.”
 - d) Chief engineer shall examine plans as to:

- 1) "Feasibility."
 - 2) "Co-ordination of the plan with any general plan for the watershed of which the district might be a part."
 - 3) "The safety of the works and improvements proposed."
 - 4) "Conformity with the "intents and purposes of this act." (K.S.A. 24-1213)
- e) Chief engineer must provide board written report with any changes or modifications and such report must either approve or disapprove of the general plan. (K.S.A. 24-1213)
2. Financing of projects in the general plan. Once the general plan is approved by the chief engineer, board shall pass a resolution that proposed cost to district of all projects identified be paid by either general levy against all taxable property in the district; by special assessment against lands within district specially benefited; or that both a general levy and special assessment be used. (K.S.A. 24-1214)
- a) Board must set a time and place for public hearing on the general plan and resolution proposing method of financing projects. Following such hearing, board must pass resolution adopt as "official" or reject the general plan and method of financing, or determine one or both should be modified.
 - b) Any modified general plan must be provided to the chief engineer for "further consideration." After review, chief engineer shall submit to board a "supplemental" report of the engineer's review of the modified general plan. If such modified plan is approved by chief engineer, board shall pass a resolution adopting it as the "official general plan of the district."
 - c) If board cannot carry out a general plan because a bond issue fails before the electors, or because insufficient funds are generated by a bond issue, the board may reconsider the general plan, the method of financing, or both items.
 - d) If resolution of financing authorizes issuance of improvement bonds payable by either the entire district or by properties specially benefitted, an election within the district must be called by the board. (K.S.A. 24-1215)
 - e) If resolution of financing proposes to pay all costs through a general levy, with no bond issuance, board must publish resolution. It will become effective in 30 days unless petitions are signed by landowners of the district in excess of 20% of the landowners. If sufficient petitions are filed, an election must be held.
 - f) If resolution of financing proposes special assessments be used on lands "especially benefited," the board must appoint 3 appraisers who shall provide a recommendation of apportionment of the special assessment to the lands benefited. (K.S.A. 24-1217)
3. Sequence of projects in the general plan. (K.S.A. 24-1216) After adoption of the general plan and method of financing, board may determine order of projects. Detailed construction plans and cost estimates from an engineer may be considered. If board approves those plans and estimates, **they shall provide a copy of those documents to the chief engineer.** Chief engineer shall review and provide written report to the board with any changes or modifications engineer believes are necessary.

- a) 10 years after adoption of the general plan and “every five years thereafter” board shall review it and decide if projects in original plan “are still feasible and in the public interest.”
- b) Report of the board’s review shall be given at a public meeting “called for that purpose.”
- c) If all projects in general plan are complete, no such review is required.
- d) If the board makes “revisions or amendments” to the general plan as a result of this review, they shall be provided to the chief engineer for review.

VII. Watershed Districts—Enlargement (or transfer of territory).

A. Chief engineer has authority to transfer territory from a watershed district “to any other adjacent watershed district...” (K.S.A. 24-1222).

- 1. Petition must be submitted to chief engineer showing both watershed districts agree with the transfer and it will “result in more efficient operation of both districts...” (K.S.A. 1223)
- 2. A hearing on the petition is held before the chief engineer. (K.S.A. 24-1224)
- 3. If chief engineer finds statements in petition are true, engineer shall declare detachment of territory from one district and its addition to the other district. (K.S.A. 24-1225) Chief engineer may also reject the petition.
- 4. Balance of any bonded indebtedness, including temporary notes unpaid remains “a charge upon the territory transferred.” The transferred territory does not assume any portion of such outstanding debt existing within the district to which it is attached. (K.S.A. 24-1226)

B. **Extension of Boundary of District.** Upon presentation of a petition, the secretary of state, if approved by the chief engineer, may extend territory of watershed district. (K.S.A. 24-1227)

- 1. Petition must describe area to be annexed;
- 2. Identify watershed district the petitioners wish to join;
- 3. Attach a map showing area to be annexed;
- 4. Show the proposed extension has been “recommended by the watershed district concerned by resolution duly adopted by its board.”

VIII. Watershed Districts—Complete or Partial Dissolution.

A. Complete Dissolution of Watershed District. (K.S.A. 24-1228)

- 1. Once incorporated, if district has “**for more than eight years** ...not adopted a general plan of work and projects to be undertaken by the district, constructed or contracted to construct any works of improvement or incurred any continuing obligations for maintenance of any works of improvement, or when such a district has been organized an incorporated under such provisions for **more than four years** and has not made substantial progress toward a general plan of work and projects to be undertaken by the district,” it is subject to dissolution.
 - a) If resolution is adopted by 2/3 vote of all district board members present and voting, “but in no event less than a majority of all members of such board at a special meeting of such board called for that purpose” may call for election on question of dissolving district;
- or**

- b) If written petitions signed by 20% of landowners are submitted, calling for such an election, board must call election.
- c) If a majority of those voting favor dissolution, board “shall immediately certify the results of such election to the secretary of state... .” The secretary shall provide the secretary of the board with a certificate of dissolution.

B. Partial Dissolution of Watershed District. (K.S.A. 24-1229)

1. Chief engineer may dissolve only a portion of a watershed district, upon receipt of an appropriate petition.
 - a) Petition must describe portion of district to be dissolved;
 - b) Petition must show dissolution requested by majority of board “or majority of the landowners in the territory to be dissolved.”
2. Chief engineer must hold a hearing.
 - a) Duty of petitioners to “show satisfactory evidence in support of the requested dissolution.”
 - b) If chief engineer finds dissolution “will not substantially impair the effectiveness of a general plan of the district which has been approved by the chief engineer, he shall transmit a written report of his findings ...together with his written approval or disapproval of the petition, to the secretary of state and the secretary of the board.”
 - c) Secretary of state shall issue a certificate of dissolution regarding that portion of the land identified in the petition.
3. Directors are notified of partial or complete dissolution of watershed district
 - a) When secretary of board receives certificate of complete or partial dissolution from the secretary of state, secretary must notify directors.
 - b) Directors must “immediately pay all obligations of said district or portion thereof, including all costs incurred by the district, the chief engineer and secretary of state in regard to the dissolution proceedings, and the treasurer shall thereupon distribute all moneys in his hands belonging to the district or portion thereof in the manner prescribed by this act, and immediately after making such distribution, the treasurer shall notify the secretary of such distribution.”
4. Funds of Partially or Completely Dissolved District. (K.S.A. 24-1231)
 - a) All funds of completely dissolved district must be divided among the townships or cities within the district “in the proportion which the assessed valuation of property in said watershed district located within the township or city bears to the total assessed valuation of the watershed district, based on equalized assessed valuations for the preceding year.”
 - b) Any funds of watershed district “which is partially disorganized and dissolved by the provisions of this act shall be apportioned and paid to the township or cities located within or partly within the dissolved portion of said watershed district and retained by the remaining portion of said watershed district in the proportions which the assessed valuation of property in the dissolved portion of said watershed district located within the township or city and the assessed value of property in the undissolved portion of said watershed district bear to the total assessed valuation of the watershed district based on equalized assessed valuations for the preceding year.