

CHAPTER 61-08
FISCAL AFFAIRS OF IRRIGATION DISTRICTS

61-08-01. Resolution to institute initial proceedings for bonds - Contents - Adoption. Proceedings for the issuance of bonds by an irrigation district must be instituted by the adoption of an initial resolution by the board of directors of the district. The initial resolution must state:

1. The maximum principal amount of bonds proposed to be issued.
2. The purpose for which the bonds are proposed to be issued.
3. The total amount of bonded indebtedness, if any, of the district.
4. Any other statement of fact deemed advisable by the board.

The initial resolution may be adopted by a majority of the board at any regular meeting or at any special meeting of which the prescribed notice has been given.

61-08-02. Adopting initial resolutions by board - Date of election - Contents of resolution - Conduct of election. After the adoption of an initial resolution as provided in section 61-08-01, the board, by a resolution, shall provide for submitting to the electors of the district the question whether the initial resolution providing for the issuance of bonds shall be approved. The date of such election shall not be less than twenty days after the adoption of such initial resolution by the board. The board, in such resolution, shall designate the date of such election, the polling hours, and polling place thereof. Such election shall be conducted and the returns made and canvassed as in the case of a regular election of the district.

61-08-03. Notice of election - Contents. A notice of the election containing a complete copy of the initial resolution provided for in section 61-08-01 shall be given in the manner provided for a regular election of the district.

61-08-04. Ballot for election - Contents - Spoiled or blank ballots not counted. The ballot for a bond election shall be written or printed and shall state the question in substantially the following form:

Shall the _____ irrigation district issue its bonds in the amount of not to exceed \$_____ (here insert the amount) for the purpose of _____ (here insert the purpose)?

Yes
No

Spoiled or blank ballots cast at such election shall not be counted either for or against the proposed issue.

61-08-05. Majority of votes favoring issuance of bonds - Duty of board. If a majority of the votes cast at a bond election are in favor of the proposal to issue bonds as stated in the initial resolution, the board of directors shall proceed to sell, issue, and deliver such bonds as provided in this chapter.

61-08-06. Bonds - Terms. Bonds issued by any irrigation district under the provisions of this chapter must be in the denominations and form, be subject to redemption with or without premium, and be subject to any other terms or conditions as the board of directors may determine, and must mature in not more than forty years from the date of the bonds. If the maturities are serial, the first installment of principal must fall due not more than three years, and the last installment not more than forty years, from the date of the bonds.

61-08-07. Bonds - Rate of interest. Every bond provided for in this chapter must be a negotiable instrument and must bear interest at a rate or rates resulting in an average annual net

interest rate which must not exceed twelve percent per annum if the bonds are sold at private sale. There is no interest rate ceiling on bonds sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. Each bond must specify the time and place of payment of the principal.

61-08-08. Denominations of bonds - Payable in lawful money of United States. The entire issue of bonds may be composed of bonds of a single denomination or of two or more denominations. Such bonds shall recite that they are payable in lawful money of the United States.

61-08-09. Execution of bonds - Validity of bonds not impaired by change in officers. The bonds issued under the provisions of this chapter must be executed in the name of and for the district by the manual or facsimile signatures of the chairman and secretary of the board. The validity of every bond so executed is not impaired by the fact that a subscribing or attesting officer has ceased to be an officer of the district before delivery to the purchaser.

61-08-10. Registration of bond by secretary - Contents - Copy filed with county auditor - Secretary to endorse. Repealed by S.L. 1997, ch. 518, § 24.

61-08-11. Cancellation of bonds authorized but not paid - Destruction of bonds - Affidavit of destruction - Filing. Repealed by S.L. 1997, ch. 518, § 24.

61-08-12. Sale of bonds - Contents of notice. Bonds may be sold at private sale without notice or at public sale after a notice calling for bids has been published at least once in the official newspaper of each county in which the district is situated not less than fifteen days nor more than thirty days before the date specified for receiving bids. The notice may be in any form but must specify the amount of bonds offered for sale and the date or dates of the maturity thereof, and the notice must specify that the bids must be sealed and in writing and must state the time when and place where bids will be received and will be opened.

61-08-13. Opening bids for bond issues - Record of bids kept - Bids accompanied by check. At the time specified for opening the bids for bonds, the secretary of the board publicly shall open the bids in the presence of the board, and after the bids have been opened, the secretary shall enter in a permanent record the amount and rate of interest of each bid and the name and address of the bidder. Each bid must be accompanied by a certified check, cashier's check, surety bond, or bank draft in the amount of not less than one percent of the bid.

61-08-14. Awarding sale of bond issue - Rejecting bids. The board of directors shall award the sale of bonds to the bidder who agrees to purchase them upon the terms most favorable to the district, except that the board may reject any and all bids. No sale may be for less than ninety-eight percent of the par value and accrued interest on the bonds.

61-08-15. Officer of irrigation district accepting commission or compensation in regard to bonds - Misdemeanor. Repealed by S.L. 1975, ch. 106, § 673.

61-08-16. Registration of bearer bonds - Transfer must be recorded in register - Registration not to affect negotiability of coupons. Repealed by S.L. 1997, ch. 518, § 24.

61-08-17. When issuance of district improvement warrants permissible. Repealed by S.L. 1997, ch. 518, § 24.

61-08-18. Use of district improvement warrants - Assessments levied to raise funds to pay improvement warrants. Repealed by S.L. 1997, ch. 518, § 24.

61-08-19. Improvement warrants - Amount - When payable - Maturity. Repealed by S.L. 1997, ch. 518, § 24.

61-08-20. Interest on warrants - Signatures - Contents. Repealed by S.L. 1997, ch. 518, § 24.

61-08-21. Registration of warrants by secretary - Filing copy of record in county auditor's office. Repealed by S.L. 1997, ch. 518, § 24.

61-08-22. Bonds may be secured by trust indenture - Powers vested in trustee. In the discretion of the board, bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside this state. The board may vest in the trustee the right to enforce any covenant made to secure or to pay the bonds.

61-08-23. Where money received from bond issue placed - Lien on money. All money received from any bond issue must be placed in a fund and applied solely for the purpose for which it was borrowed and for no other purpose except that the money may be temporarily invested in securities approved by the board. A lien is granted upon the money until so applied, in favor of the owners or holders of the bonds or in favor of the trustee appointed in connection with the bonds.

61-08-24. Board may appoint fiscal agent - Who may be. The board, in its discretion, may appoint a fiscal agent located in some city within or without this state. Every such fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do a banking or trust company business.

61-08-25. Bonds and contracts payable from assessments of real property and from water charges. Bonds issued by any irrigation district, and the interest thereon, and contracts not payable in bonds, made and entered into by the district for the acquisition of irrigation works already constructed, or for the establishment and construction of irrigation works, or any part thereof, must be paid from the revenue obtained from special assessments upon the real property of the district or from any other revenue available for that purpose obtained from charges to water users or from the sale of water to any person, firm, corporation, limited liability company, municipality, or other irrigation district, or by a combination of special assessments and water charges.

61-08-26. County treasurer to be custodian of funds. The county treasurer shall act as the custodian of sinking funds, or funds created for the payment of bonds, except that in case an irrigation district is located in more than one county the board, by recorded resolution, shall designate the county treasurer who shall act as the custodian of the funds. Upon the adoption of the resolution, the county treasurer so designated shall act as the custodian. A copy of the resolution and a copy of each and every contract, trust agreement, or trust indenture relating to the issuance and payment of bonds must be filed with the county treasurer.

61-08-27. District treasurer to remit moneys to county treasurer - Crediting proper fund. The district treasurer shall remit to the county treasurer all moneys received by the treasurer in payment of assessments levied for sinking funds or for the payment of bonds. The district treasurer also shall remit to the county treasurer moneys raised from water rentals or water charges, when directed to do so by the board, and the district treasurer shall designate the fund or funds to which the moneys belong, except that all moneys, from whatever source derived, obligated under the terms of any contract, or agreement made and entered into by the district, to meet payments as they become due, shall be paid and remitted to the county treasurer and shall be credited by the county treasurer to the proper fund.

61-08-28. Payment of bonds and interest. The county treasurer shall pay the principal of, premium, if any, and interest on the bonds upon maturity, redemption, or purchase in the open market from any moneys in the fund created for the payment thereof. The county treasurer may disburse moneys in the fund to the fiscal agent or trustee appointed by the board for the purpose of paying the principal of, premium, if any, and interest on the bonds for which the fund was created, without any authorization from the board.

61-08-29. Claims paid by district treasurer - Insufficient funds - Verification of claims. No claim, other than payments of principal of, premium, if any, or interest on bonds, shall be paid by the district treasurer until the claim has been allowed by the board, and only

upon warrants signed by the president and countersigned by the secretary. If the treasurer does not have sufficient money on hand to pay a warrant when it is presented for payment, the treasurer shall endorse thereon "Not paid for want of funds" and the date when so presented, over the treasurer's signature. All claims against the district must be certified the same as claims filed against a county. The board may require any claim to be verified. The secretary of the district may administer an oath to the person verifying a claim.

61-08-30. Board may withdraw funds from district and deposit with county treasurer - Duty of treasurer. The board may draw from time to time from the construction fund and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer shall receive and receipt for the same and place the same to the credit of the district, and the county treasurer shall be responsible upon the county treasurer's official bond for the safekeeping and disbursement of the same as provided in this chapter. The county treasurer shall pay out the same, or any part thereof, to the treasurer of the district only upon the order of the board, signed by the president, and attested by the secretary.

61-08-31. County treasurer to make report to board monthly. The county treasurer shall report in writing to the district on the second Monday in each month the amount of money belonging to the district in the county treasury, the amount of receipts for the month preceding, and the amount of the moneys paid out and assessments against each tract or parcel of land within the district which were paid in the preceding month. Such report shall be verified and filed with the secretary of the board.

61-08-32. District treasurer to make report to board - Verifying and filing. The district treasurer shall report to the board in writing as often as the board may require in its bylaws, the amount of money in the district treasury, the amount of receipts since the previous report, and the amount and items of expenditures. Such report shall be verified and filed with the secretary of the board.

61-08-33. District treasurer to keep warrant register - Contents - How warrants payable. Repealed by S.L. 1997, ch. 518, § 24.

61-08-34. Refunding irrigation district bonds - Negotiating new bonds. Each irrigation district in this state that has issued or shall issue bonds or improvement warrants purporting to have been issued for any purpose authorized by law, which bonds or improvement warrants have been sold and delivered to purchasers for value and constitute an existing indebtedness, may at any time after or before maturity refund the same and issue and sell refunding bonds in amounts, bearing interest at rates, and maturing on dates as determined by the board.

61-08-35. Procedure used in issuing refunding bonds. When in the judgment of the board of directors of an irrigation district it is in the best interests of the irrigation district to issue its bonds for the purpose of refunding or paying outstanding indebtedness as provided in section 61-08-34, refunding bonds may be issued pursuant to resolutions duly passed at a regular or special meeting of the board of directors. The refunding bonds may be sold at public or private sale and must be signed in the same manner as the bonds to be refunded or by the officers of the irrigation district as may be designated in the resolutions providing for their issuance.

61-08-36. Refunding bonds - When payable - Interest - Denominations - Interest coupons. Repealed by S.L. 1997, ch. 518, § 24.

61-08-37. Refunding bonds may be exchanged or sold. Repealed by S.L. 1997, ch. 518, § 24.

61-08-38. Amount of refunding bonds issued. Repealed by S.L. 1997, ch. 518, § 24.

61-08-39. Assessments - Proceeds - Levy. All assessments made by an irrigation district for the payment of the bonds or improvement warrants to be refunded must inure to the

benefit of the holders of the refunding bonds and the proceeds of the assessments must be utilized for the purpose of paying the interest and principal of the refunding bonds, and the board of directors of the irrigation district shall levy an assessment against the lands of the district, as provided by law for levying assessments, sufficient to pay the interest on the refunding bonds and to create a sinking fund to retire the refunding bonds at maturity.

61-08-40. Provisions relating to payment of bonds applicable to refunding bonds.

All provisions of law relating to the assessment in irrigation districts and the collection thereof for the purpose of raising funds for the payment of bonds of an irrigation district shall be applicable to bonds issued under the provisions of sections 61-08-34 through 61-08-39.

61-08-41. Issuance of revenue bonds. The acquisition, construction, reconstruction, improvement, betterment, or extension of any revenue-producing facility, and the issuance of revenue bonds in anticipation of the collection of the revenues of the facility, may be authorized by resolution adopted by the affirmative vote of a majority of the board of directors. The amount of the bonds authorized may not exceed the amount authorized by the electors of the district as provided in this chapter.

61-08-42. Payment and security for revenue bonds. Revenue bonds issued under this chapter may not be payable from nor charged upon any funds other than the revenue pledged to the payment of the bonds, nor is the district issuing the bonds subject to any pecuniary liability on the bonds. A holder of the bonds does not have the right to compel the levy of special assessments to pay the bonds or the interest, or to enforce payment of the bonds against any property of the district other than property pledged as security for the bonds. Each revenue bond issued under this chapter must recite in substance that the bond, including interest on the bond, is payable solely from the revenue pledged to the payment of the bond, and that the bond does not constitute a debt of the district within the meaning of any constitutional or statutory limitation.