

Title 86

FLOOD CONTROL

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Chapter 86.05 RCW

FLOOD CONTROL DISTRICTS—1935 ACT

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- 86.05.920 Repeal of RCW 86.05.010 through 86.05.910—Saving—Option to conform to chapter 86.09 RCW—Validation.

86.05.920 Repeal of RCW 86.05.010 through 86.05.910—Saving—Option to conform to chapter 86.09 RCW—Validation. Sections 1 through 79, chapter 160, Laws of 1935, section 1, chapter 82, Laws of 1949, section 1, chapter 20, Laws of 1953 and RCW 86.05.010 through 86.05.910 are each repealed: PROVIDED, That districts heretofore established pursuant to said laws may continue to be operated and maintained as provided therein (except that the tort liability immunity provided for in section 32, chapter 160, Laws of 1935 and RCW 86.05.320 shall no longer apply); or may take such action as may be required to conform to the provisions of chapter 72, Laws of 1937 and chapter 86.09 RCW regulating the maintenance and operation of flood control districts to the same extent and to the same effect as if originally organized under said act: PROVIDED FURTHER, That the organization of such districts and the validation of indebtedness heretofore incurred and the limitations upon indebtedness incurred after the effective date of this 1970 amendatory act shall be governed as follows:

(1) Each and all of the flood control districts heretofore organized and established under sections 1 through 79, chapter 160, Laws of 1935, section 1, chapter 82, Laws of 1949, section 1, chapter 20, Laws of 1953 and RCW 86.05.010 through 86.05.910 are hereby validated and declared to be duly existing flood control districts having their respective boundaries as set forth in their organization proceedings as shown by the files in the offices of the auditors of each of the counties affected;

(2) All debts, contracts, and obligations heretofore made by or in favor of, and all bonds or other obligations heretofore executed in connection with or in pursuance of attempted organization, and all other things and proceedings heretofore done or taken by any flood control district heretofore established, operated and maintained under sections 1 through 79, chapter 160, Laws of 1935, section 1, chapter 82, Laws of 1949, section 1, chapter 20, Laws of 1953 and RCW 86.05.010 through 86.05.910 are hereby declared legal and valid and of full force and effect until such are fully satisfied and/or discharged.

(3) The limitation upon indebtedness prescribed in repealed section RCW 86.05.380 to an amount not exceeding one and one-half percent of the taxable property in such district without the assent of three-fifths of the voters therein and three percent of such property with such assent shall henceforth be to an amount not exceeding three-fourths of one percent of the value of the taxable property in such district without the assent of three-fifths of the voters therein and one and one-half percent of such property with such assent. The limitation upon indebtedness referred to in repealed section RCW 86.05.720 of one and one-half percent of the taxable property in such district shall henceforth be three-fourths of one percent of the value of the taxable property in such district. The term "value of the taxable property" as used in this paragraph shall have the meaning set forth in RCW 39.36.015. [1970 ex.s. c 42 § 40; 1967 c 164 § 8; 1965 c 26 § 16.]

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

Additional notes found at www.leg.wa.gov

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Deferral of special assessments: Chapter 84.38 RCW.

Special district creation and operation: Chapter 85.38 RCW.

86.09.001 Districts authorized—Purpose. Flood control districts may be created and maintained in this state, as herein provided, for the protection of life and property, the preservation of the public health and the conservation and development of the natural resources of the state of Washington. [1937 c 72 § 1; RRS § 9663E-1. Formerly RCW 86.08.005, part.]

86.09.004 Districts to provide control of water—Territory includable—Powers of district wholly within city or town. Such flood control districts shall be organized to provide for the ultimate necessary control of the entire part, or all, of the stream system of any stream or tributary, or for the protection against tidal or any bodies of water, within this state and may include all or part of the territory of any county and may combine the territory in two or more such counties,

in which any of the lands benefited from the organization and maintenance of a flood control district are situated.

A district established wholly within the boundaries of any city or town may also provide for the collection, control, and safe and suitable conveyance over and across the district, of intermittent surface and drainage water, originating within or without its boundaries, to suitable and adequate outlets. [1965 c 26 § 1; 1937 c 72 § 2; RRS § 9663E-2. Formerly RCW 86.08.005, part.]

86.09.010 Authorized purposes. Such flood control districts may be organized or maintained for any, or all, the following general purposes:

(1) The investigation, planning, construction, improvement, replacement, repair or acquisition of dams, dikes, levees, ditches, channels, canals, banks, revetments and other works, appliances, machinery and equipment and property and rights connected therewith or incidental thereto, convenient and necessary to control floods and lessen their danger and damages.

(2) The cooperation with any agency or agencies of the United States and/or of the state of Washington in investigating and controlling floods and in lessening flood dangers and damages. [1937 c 72 § 4; RRS § 9663E-4. Formerly RCW 86.08.005, part.]

86.09.013 State school or other public lands includable. State granted school or other public lands of the state of Washington may be included within such flood control districts. [1937 c 72 § 5; RRS § 9663E-5. Formerly RCW 86.08.010, part.]

86.09.016 Interest in public lands considered as private property—State or public title not affected. All leases, contracts or other form of holding any interest in any state or public land shall be treated as the private property of the lessee or owner of the contractual or possessory interest therein: PROVIDED, That nothing in this chapter or in any proceeding authorized thereunder shall be construed to affect the title of the state or other public ownership. [1937 c 72 § 6; RRS § 9663E-6. Formerly RCW 86.08.010, part.]

86.09.019 Federal lands includable. Lands of the federal government may be included within such districts in the manner and subject to the conditions, now or hereafter specified in the statutes of the United States. [1937 c 72 § 7; RRS § 9663E-7. Formerly RCW 86.08.010, part.]

86.09.020 Certain powers and rights governed by chapter 85.38 RCW. Flood control districts shall possess the authority and shall be created, district voting rights shall be determined, and district elections shall be held as provided in chapter 85.38 RCW. [1985 c 396 § 36.]

86.09.148 District's corporate powers. A flood control district created under this chapter shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all powers that may now or hereafter be conferred by law. [1967 c 164 § 9; 1937 c 72 § 50; RRS § 9663E-50. Formerly RCW 86.08.260, part.]

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

86.09.151 General powers of districts. (1) Said flood control districts shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, improve, repair, occupy, and sell real and personal property or any interest therein, either inside or outside the boundaries of the district, to enter into and perform any and all necessary contracts, to appoint and employ the necessary officers, agents and employees, to sue and be sued, to exercise the right of eminent domain, to levy and enforce the collection of special assessments and in the manner herein provided against the lands within the district, for district revenues, and to do any and all lawful acts required and expedient to carry out the purpose of this chapter.

(2) In addition to the powers conferred in this chapter and those in chapter 85.38 RCW, flood control districts may engage in activities authorized under RCW 36.61.020 for lake or beach management districts using procedures granted in this chapter and in chapter 85.38 RCW. [2008 c 301 § 27; 1986 c 278 § 52; 1937 c 72 § 51; RRS § 9663E-51. Formerly RCW 86.08.260, part.]

Additional notes found at www.leg.wa.gov

86.09.154 Sale, lease, use of water by district. Duly created flood control districts, when maintaining and operating flood control works, shall have authority incidental thereto to lease, acquire, construct, operate and maintain appropriate instrumentalities for the use and sale or lease of water for any and all beneficial purposes and for the drainage, diking, or irrigation of lands upon the payment to the district of the reasonable cost of such service on a semiannual or monthly toll basis. [1937 c 72 § 52; RRS § 9663E-52. Formerly RCW 86.08.260, part.]

86.09.157 Special assessment bonds authorized—Payment from income. Said flood control districts shall also have authority to issue and sell special assessment bonds or notes of the district in accordance with chapter 85.38 RCW. [1986 c 278 § 40; 1937 c 72 § 53; RRS § 9663E-53. Formerly RCW 86.08.790, part.]

Additional notes found at www.leg.wa.gov

86.09.160 Power of district to act for United States. Flood control districts created under the provisions of this chapter shall have authority to act as fiscal agent or other authority for the United States to make collections of money for or on behalf of the United States or any federal agency thereof in connection with the operations of said district, whereupon said district and the county treasurer for said district shall be authorized to act and to assume the duties and liabilities incident to such action and the district board shall have full power to do any and all things required by any statute now or hereafter enacted in connection therewith and to do all things required by the rules and regulations now or that may hereafter be established by any department or agency of

the state or federal government in regard thereto. [1937 c 72 § 54; RRS § 9663E-54. Formerly RCW 86.08.260, part.]

86.09.163 Contracts with United States or state—Supervision of works. The district board shall have authority to enter into any obligation or contract authorized by law with the United States or with the state of Washington for the supervision of the construction, for the construction, reconstruction, betterment, extension, purchase, operation or maintenance of the necessary works for the control of floods or for any other service furthering the objects for which said flood control district is created under the provisions of the law of the state of Washington or of the United States and all amendments or extensions thereof and the rules and regulations established thereunder. [1937 c 72 § 55; RRS § 9663E-55. Formerly RCW 86.08.260, part.]

86.09.166 Contracts with United States or state—Control, management of works—Contribution of funds. Flood control districts created under this chapter shall have authority to enter into contracts with, and/or contribute funds to, the United States or any agency thereof, or with, and/or contribute funds to, the state of Washington, under any act of congress or of the state of Washington now in force or hereafter enacted for the assumption of the control and management of the works for such period as may be designated in the contract, or other cooperative arrangement. [1937 c 72 § 56; RRS § 9663E-56. Formerly RCW 86.08.270, part.]

86.09.169 Contracts with United States or state—Bonds as security—Annual assessment and levy. In case a contract has been or shall be hereafter made between the district and the United States, or any agency thereof, or with the state of Washington, as herein provided, bonds of the district may be deposited with the United States, or any agency thereof, or with the state of Washington, as payment or as security for future payment at not less than ninety percent of the par value, the interest on said bonds to be provided for by assessment and levy as in the case of bonds of the district sold to private persons and regularly paid to the United States, or any agency thereof, or to the state of Washington, to be applied as provided in such contract and if bonds of the district are not so deposited it shall be the duty of the board of directors to include as part of any levy or assessment against the lands of the district, an amount sufficient to meet each year all payments accruing under the terms of any such contract. [1937 c 72 § 57; RRS § 9663E-57. Formerly RCW 86.08.270, part.]

86.09.172 Contracts with United States or state—When submission to electors required. No contract, however, requiring the levy of assessments for more than one year shall be entered into by the district as above provided unless a proposition of entering into such a contract shall have first been submitted to the electors of the district as herein provided for the calling, noticing, conducting and canvassing of special district elections, and by said electors approved. [1937 c 72 § 58; RRS § 9663E-58. Formerly RCW 86.08.270, part.]

86.09.175 Installment contracts—Approval. Contracts entered into by districts for construction or for services or materials, may provide that payments shall be made in such monthly proportion of the contract price, as the board shall determine thereon, as the work progresses, or as the services or materials are furnished, on monthly estimates of the value thereof, approved by the state director. Before the district shall enter into any contract, the plans, specifications and form of contract therefor shall be approved by the state director. [1937 c 72 § 59; RRS § 9663E-59. Formerly RCW 86.08.280, part.]

86.09.178 Construction contracts—Public bids, procedure. Contracts for construction, or for labor or materials entering into the construction of any improvement authorized by the district shall be awarded at public bidding except as herein otherwise provided. A notice calling for sealed proposals shall be published in such newspaper or newspapers of general circulation as the board shall designate for a period of not less than two weeks (three weekly issues) prior to the day of the opening of the bids. Such proposals shall be accompanied by a certified check for such amount as the board shall decide upon, to guarantee a compliance with the bid and shall be opened in public at the time and place designated in the notice. The contract shall be awarded to the lowest and best responsible bidder: PROVIDED, That the board shall have authority to reject any or all bids, in which event they shall readvertise for bids and, when no satisfactory bid is then received and with the written approval of the director, may proceed to construct the works by force account. [1965 c 26 § 2; 1937 c 72 § 60; RRS § 9663E-60. Formerly RCW 86.08.280, part.]

86.09.181 Contractor's bond. Any person, except the state of Washington and the United States, acting under the provisions of this chapter, to whom or to which a contract may have been awarded by the district for construction purposes, or for labor or materials entering therein when the total amount to be paid therefor exceeds one thousand dollars, shall enter into a bond to the state of Washington, with good and sufficient sureties, to be approved and filed with the state director, for one hundred percent of the contract price, conditioned for the faithful performance of said contract and with such further conditions as may be required by law. [1965 c 26 § 3; 1937 c 72 § 61; RRS § 9663E-61. Formerly RCW 86.08.290, part.]

Contractor's bond: Chapter 39.08 RCW.

86.09.196 Construction in parts or units—Liability for assessment. The district shall have authority upon the adoption of a comprehensive plan of flood control with the approval of the state director to provide for the construction of the same partially and in parts or units and all the benefited lands in the district shall be liable for assessment to defray the costs of such partial construction or such parts or units until the entire plan has been completed and fully paid for. [1937 c 72 § 66; RRS § 9663E-66. Formerly RCW 86.08.310.]

86.09.202 Eminent domain—Authorized. The taking and damaging of property or rights therein or thereto by a flood control district to construct an improvement or to fully

carry out the purposes of its organization are hereby declared to be for a public use, and any district organized under the provisions of this chapter, shall have and exercise the power of eminent domain to acquire any property or rights therein or thereto either inside or outside the operation of the district and outside the state of Washington, if necessary, for the use of the district. [1937 c 72 § 68; RRS § 9663E-68. Formerly RCW 86.08.260, part.]

86.09.205 Eminent domain—Procedure. Flood control districts exercising the power of eminent domain shall proceed in the name of the district in the manner provided by law for the appropriation of real property or of rights therein or thereto, by private corporations, except as otherwise expressly provided herein. [1937 c 72 § 69; RRS § 9663E-69. Formerly RCW 86.08.320, part.]

Eminent domain by private corporations generally: Chapter 8.20 RCW.

86.09.208 Eminent domain—Consolidation of actions—Separate verdicts. The district may at its option unite in a single action proceedings to condemn, for its use, property which is held by separate owners. Two or more condemnation suits instituted separately may also, in the discretion of the court, be consolidated upon motion of any interested party, into a single action. In such cases, the jury shall render separate verdicts for the different tracts of land. [1937 c 72 § 70; RRS § 9663E-70. Formerly RCW 86.08.320, part.]

86.09.211 Eminent domain—Damages, how determined—Judgment when damages exceed benefits. The jury, or court if the jury be waived, in such condemnation proceedings shall find and return a verdict for the amount of damages sustained: PROVIDED, That the court or jury, in determining the amount of damages, shall take into consideration the special benefits, if any, that will accrue to the property damaged by reason of the improvement for which the land is sought to be condemned, and shall make special findings in the verdict of the gross amount of damages to be sustained and the gross amount of special benefits that will accrue. If it shall appear by the verdict of findings, that the gross damages exceed said gross special benefits, judgment shall be entered against the district, and in favor of the owner or owners of the property damaged, in the amount of the excess of damages over said benefits, and for the costs of the proceedings, and upon payment of the judgment to the clerk of the court for the owner or owners, a decree of appropriation shall be entered, vesting the title to the property appropriated in the district. [1937 c 72 § 71; RRS § 9663E-71. Formerly RCW 86.08.330, part.]

86.09.214 Eminent domain—Judgment, when benefits equal or exceed damages. If it shall appear by the verdict that the gross special benefits equal or exceed the gross damages, judgment shall be entered against the district and in favor of the owner or owners for the costs only, and upon payment of the judgment for costs a decree of appropriation shall be entered vesting the title to the property in the district. [1937 c 72 § 72; RRS § 9663E-72. Formerly RCW 86.08.330, part.]

86.09.217 Eminent domain—Right to levy on other land not affected. If the damages found in any condemnation proceedings are to be paid for from funds of the flood control district, no finding of the jury or court as to benefits or damages shall in any manner abridge the right of the district to levy and collect assessments for district purposes against the uncondemned lands situated within the district. [1937 c 72 § 73; RRS § 9663E-73. Formerly RCW 86.08.340, part.]

86.09.220 Eminent domain—Unpaid damages to be applied in satisfaction of levies—Deficiency assessments. The damages thus allowed but not paid shall be applied pro tanto to the satisfaction of the levies made for such construction costs upon the lands on account of which the damages were awarded: PROVIDED, That nothing herein contained shall be construed to prevent the district from assessing the remaining lands of the owner or owners, so damaged, for deficiencies on account of the principal and interest on bonds and for other benefits not considered by the jury in the condemnation proceedings. [1937 c 72 § 74; RRS § 9663E-74. Formerly RCW 86.08.340, part.]

86.09.223 Eminent domain—Title and estate acquired. The title acquired by the district in condemnation proceedings shall be the fee simple title or such lesser estate as shall be designated in the decree of appropriation. [1937 c 72 § 75; RRS § 9663E-75. Formerly RCW 86.08.340, part.]

86.09.226 Right of entry to make surveys and locate works. The district board and its agents and employees shall have the right to enter upon any land, to make surveys and may locate the necessary flood control works and the line for canal or canals, dike or dikes and other instrumentalities and the necessary branches and parts for the same on any lands which may be deemed necessary for such location. [1937 c 72 § 76; RRS § 9663E-76. Formerly RCW 86.08.350.]

86.09.229 Crossing road or public utility—Notice, plan, cost, etc. Whenever in the progress of the construction of the system of district improvement, it shall become necessary to construct a portion of such system across any public or other road or public utility, the district board shall serve notice in writing upon the public officers, corporation or person having charge of or controlling or owning such road or public utility, as the case may be, of the present necessity of such crossing, giving the location, kind, dimensions and requirement thereof, for the purpose of the system of improvement, and stating a reasonable time, to be fixed by the board, within which plans for such crossing must be filed for approval in case the public officer, corporation or person controlling or owning such road or public utility desire to design and construct such crossing. As soon as convenient, within the time fixed in the notice, the public officers, corporation or person shall, if they desire to construct such crossing, prepare and submit to the board for approval duplicate detailed plans and specifications for such crossing. Upon the return of such approved plans, the public officers, corporation or person controlling such road or public utility shall, within the time fixed by the board, construct such crossing in accordance with the approved plans. In case such public offi-

cers, corporation or person controlling or owning such road or public utility shall fail to file plans for such crossing within the time prescribed in the notice, the district board shall proceed with the construction of such crossing in such manner as will cause no unnecessary injury to or interference with such road or public utility. The cost of construction and maintenance of only such crossings or such portion of such cost as would not have been necessary but for the construction of the system of improvement shall be a proper charge against the district, and only the actual cost of such improvement constructed in accordance with the approved plans shall be charged against the district in the case of crossings constructed by others than the district. The amount of costs of construction allowed as a charge against the district shall be credited ratably on the assessments against the property on which the crossing is constructed if chargeable therewith, until the same is fully satisfied. [1965 c 26 § 5; 1937 c 72 § 77; RRS § 9663E-77. Formerly RCW 86.08.360.]

86.09.232 Right-of-way on state land, exception. The right-of-way is hereby given, dedicated and set apart to locate, construct and maintain district works over and through any of the lands which are now or may hereafter be the property of the state of Washington, except lands of said state actually dedicated to public use. [1937 c 72 § 78; RRS § 9663E-78. Formerly RCW 86.08.370, part.]

86.09.235 Power to construct works inside or outside of district. Flood control districts organized under the provisions of this chapter shall have authority to construct, operate and maintain any and all necessary flood control works inside and outside the boundaries of the district. [1937 c 72 § 79; RRS § 9663E-79. Formerly RCW 86.08.370, part.]

86.09.259 Board of directors—Number—Officers. A flood control district shall be managed by a board of directors consisting of three members. The initial directors shall be appointed, and the elected directors elected, as provided in chapter 85.38 RCW. The directors shall elect a chair from their number and shall either elect one of their number, or appoint a voter of the district, as secretary to hold office at its pleasure and who shall keep a record of its proceedings. [2013 c 23 § 448; 1985 c 396 § 58; 1967 c 154 § 7; 1937 c 72 § 87; RRS § 9663E-87. Formerly RCW 86.08.390, part.]

Provisions cumulative: "The provisions of this act are cumulative with and shall not amend, repeal or supersede any other powers heretofore or hereafter granted such districts." [1967 c 154 § 5.]

86.09.265 Board of directors—Quorum—Majority vote required. A majority of the directors shall constitute a quorum for the transaction of business, and in all matters requiring action by the board, there shall be a concurrence of at least a majority of the directors. [1937 c 72 § 89; RRS § 9663E-89. Formerly RCW 86.08.205, part.]

86.09.268 Board of directors—Powers and duties. The board shall have the power and it shall be its duty to adopt a seal of the district, to manage and conduct the business affairs of the district, to employ and appoint such agents, engineers, attorneys, officers and employees as may be necessary, and prescribe their duties, to establish reasonable

bylaws, rules and regulations for the government and management of affairs of the district, and generally to perform any and all acts necessary to carry out the purpose of the district organization. [1937 c 72 § 90; RRS § 9663E-90. Formerly RCW 86.08.175, part.]

86.09.271 Board of directors—Location of district office—Change of location. The office of the directors and principal place of business of the district shall be located, if possible, at some place within the district to be designated by the board. If a place convenient and suitable for conducting district business and public hearings required by this chapter cannot be found within the district, the office may be located in the county within which the major portion of district lands is situated. The office and place of business cannot thereafter be changed, except with the previous written consent of the county legislative authority of the county within which the major portion of the district is situated, and without passing a resolution to that effect at a previous regular meeting of the board, entered in the minutes thereof and without posting a notice of the change in a conspicuous public place at or near the place of business which is to be changed at least ten days prior thereto and by the previous posting of a copy of the notice for the same length of time at or near the new location of the office. [1985 c 396 § 59; 1965 c 26 § 7; 1937 c 72 § 91; RRS § 9663E-91. Formerly RCW 86.08.200.]

86.09.274 Board of directors—Meetings—Change of date. The directors shall hold a regular meeting at their office at least once a year, or more frequently, on the date or dates the board shall designate in their bylaws, and may adjourn any meeting from time to time as may be required for the proper transaction of business: PROVIDED, That the day of the regular meeting cannot be changed, except in the manner prescribed herein for changing the place of business of the district. [1985 c 396 § 60; 1937 c 72 § 92; RRS § 9663E-92. Formerly RCW 86.08.205, part.]

86.09.277 Board of directors—Special meetings—When notice required—Authorized business. Special meetings of the board may be called at any time by order of a majority of the directors. Any member not joining in said order shall be given, by United States mail, at least a three days' notice of such meeting, unless the same is waived in writing, which notice shall also specify the business to be transacted and the board at such special meeting shall have no authority to transact any business other than that specified in the notice, unless the transaction of any other business is agreed to in writing by all the members of the board. [1937 c 72 § 93; RRS § 9663E-93. Formerly RCW 86.08.205, part.]

86.09.280 Board of directors—Meetings and records public—Printing of bylaws and rules. All meetings of the directors must be public. All records of the board shall be open for the inspection of any elector of the district during business hours of the day in which any meeting of the board is held. The bylaws, rules and regulations of the board shall be printed in convenient form for distribution in the district. [1937 c 72 § 94; RRS § 9663E-94. Formerly RCW 86.08.205, part, and 86.08.210, part.]

Meetings of public officials declared public: RCW 42.30.035.

(2018 Ed.)

86.09.283 Board of directors—Compensation and expenses of members and employees. The board of directors may each receive up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the board, or in performance of other official services or duties on behalf of the board. The board shall fix the compensation to be paid to the directors, secretary, and all other agents and employees of the district. Compensation for the directors shall not exceed eight thousand six hundred forty dollars in one calendar year. A director is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the director's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

Any director may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the director's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2008, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions. [2007 c 469 § 12; 1998 c 121 § 13; 1991 c 349 § 24; 1985 c 396 § 61; 1965 c 26 § 8; 1937 c 72 § 95; RRS § 9663E-95. Formerly RCW 86.08.175, part, and 86.08.195, part.]

86.09.286 Board of directors—Personal interest in contracts prohibited—Penalty—Officer may be employed. No director or any other officer named in this chapter shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a mis-

demeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment: PROVIDED, That nothing in this section contained shall be construed to prevent any district officer from being employed by the district as foreman or as a day laborer: PROVIDED FURTHER, That this section shall have no application to any person who is a state employee as defined in RCW 42.52.010. [1994 c 154 § 316; 1969 ex.s. c 234 § 35; 1937 c 72 § 96; RRS § 9663E-96. Formerly RCW 86.08.215.]

Ethics in public service act: Chapter 42.52 RCW.

Additional notes found at www.leg.wa.gov

86.09.292 Board of directors—Chair of county commissioners may act when quorum not present. In case any member of the district board is absent at the time of any regular monthly meeting of said board, and a quorum of said board cannot be obtained by reason of the absence of said member, it shall be the duty of the chair of the board of county commissioners of the county in which the office of the district board is located to act in place of said absent member, and the acts of the district board at said meeting shall be valid so far as a quorum is concerned and shall have the same effect as though said absent member were present and acting thereat. [2013 c 23 § 449; 1937 c 72 § 98; RRS § 9663E-98. Formerly RCW 86.08.205, part.]

86.09.301 Board of directors—Oath. Every district officer, upon taking office, shall take and subscribe an official oath for the faithful discharge of the duties of his or her office during the term of his or her incumbency. [2013 c 23 § 450; 1985 c 396 § 62; 1937 c 72 § 101; RRS § 9663E-101. Formerly RCW 86.08.195, part.]

86.09.304 Bond of officer or employee handling funds. Every district officer or employee handling any district funds shall execute a surety bond payable to the district in the sum of double the estimated amount of funds handled monthly, conditioned that the principal will strictly account for all moneys or credit received by him or her for the use of the district. Each bond and the amount thereof shall be approved by the county legislative authority of the county within which the major portion of the district is situated, and thereafter filed with the secretary of the district. [2013 c 23 § 451; 1985 c 396 § 63; 1937 c 72 § 102; RRS § 9663E-102. Formerly RCW 86.08.220, part.]

86.09.307 Bonds—Cost charged to district. All official bonds executed by district officers under the provisions of this chapter shall be secured at the cost of the district. [1937 c 72 § 103; RRS § 9663E-103. Formerly RCW 86.08.220, part.]

86.09.310 Delivery of property to successor. Every person, upon the expiration or sooner termination of his or her term of office as an officer of the district, shall immediately turn over and deliver, under oath, to his or her successor in office, all records, books, papers, and other property under his or her control and belonging to such office. In case of the death of any officer, his or her legal representative shall turn

over and deliver such records, books, papers, and other property to the successor in office of such deceased person. [2013 c 23 § 452; 1937 c 72 § 104; RRS § 9663E-104.]

86.09.313 Nearest county treasurer as ex officio district treasurer. The county treasurer of any county in which lands within the flood control district are situated, whose office is nearest distant by public highway to the office of the district board and principal place of business of the district, shall be and is hereby constituted ex officio district treasurer, who shall collect all district assessments and shall keep all district funds required by law. [1937 c 72 § 105; RRS § 9663E-105. Formerly RCW 86.08.225, part.]

86.09.319 Treasurer's liability. Any county treasurer collecting or handling funds of the district shall be liable upon his or her official bond and to criminal prosecution for malfeasance, misfeasance, or nonfeasance in office relative to any of his or her duties prescribed herein. [2013 c 23 § 453; 1937 c 72 § 107; RRS § 9663E-107. Formerly RCW 86.08.230.]

86.09.322 County treasurers to collect and remit assessments. It shall be the duty of the county treasurer of each county, in which lands included within the operation of the district are located, to collect and receipt for all assessments levied as herein provided, and forward monthly all sums so collected to the ex officio district treasurer who shall place the same to the credit of the proper fund of the district. [1937 c 72 § 108; RRS § 9663E-108. Formerly RCW 86.08.240.]

86.09.325 Disbursement of funds by district treasurer. The ex officio district treasurer shall pay out moneys collected or deposited with him or her in behalf of the district, or portions thereof, upon warrants issued by the county auditor against the proper funds of the districts, except the sums to be paid out of the bond fund for interest and principal payments on bonds. [2013 c 23 § 454; 1983 c 167 § 201; 1937 c 72 § 109; RRS § 9663E-109. Formerly RCW 86.08.250, part.]

Additional notes found at www.leg.wa.gov

86.09.328 Monthly report by district treasurer. The said ex officio district treasurer shall report in writing on or before the fifteenth day of each month to the district board, the amount of money held by him or her, the amount in each fund, the amount of receipts for the month preceding in each fund, and the amount or amounts paid out of each fund, and said report shall be filed with the secretary of the board. [2013 c 23 § 455; 1937 c 72 § 110; RRS § 9663E-110. Formerly RCW 86.08.250, part.]

86.09.377 Voting rights. Each qualified voter of a flood control district who owns more than ten acres of land within the district shall be entitled to two additional votes for each ten acres or major fraction thereof located within the district, up to a maximum total of forty votes for any voter, or in the case of community property, a maximum total of twenty votes per member of the marital community. [1991 c 349 § 4; 1985 c 396 § 22.]

86.09.379 Elections—Informality not fatal. No informality in conducting any election authorized by this chapter shall invalidate the same, if the election shall have been otherwise fairly conducted. [1937 c 72 § 127; RRS § 9663E-127. Formerly RCW 86.08.165.]

86.09.380 Special assessments—Budgets—Alternative methods. RCW 85.38.140 through 85.38.170 constitute a mutually exclusive alternative method by which flood control districts in existence as of July 28, 1985, may measure and impose special assessments and adopt budgets. RCW 85.38.150 through 85.38.170 constitute the exclusive method by which flood control districts created after July 28, 1985, may measure and impose special assessments and adopt budgets. [1985 c 396 § 29.]

86.09.382 Assessments—Presumption that land benefited by class—Benefit ratio basis of assessment. It shall be and hereby is presumed that lands within flood control districts organized under the provisions of this chapter, shall be benefited in relation to their respective classes to be determined as herein provided, and that the relative ratios of benefits for said lands arising from their locations in said respective classes shall be the basis upon which the same shall be assessed to raise district revenues for any and all purposes now or hereafter authorized by law. [1937 c 72 § 128; RRS § 9663E-128. Formerly RCW 86.08.450, part.]

86.09.385 Assessments—Base map of lands within the district. As a basis for the levy of all assessments authorized under this chapter, the county legislative authority of the county within which the major portion of the district is situated, soon after the creation of the district, shall cause to be prepared a base map of the lands within the district and deliver the same to the secretary of the district: PROVIDED, That said county legislative authority shall not be required to prepare said base map unless ample appropriation of funds for the purpose has been made. [1985 c 396 § 64; 1965 c 26 § 10; 1937 c 72 § 129; RRS § 9663E-129. Formerly RCW 86.08.420, part.]

86.09.388 Assessments—Appointment of appraisers—Determination of benefit ratios. Upon receipt of the base map the board of directors of the district shall appoint a board of three appraisers subject to the written approval of the county legislative authority of the county within which the major portion of the district is situated, whose duty it shall be to determine the ratio of benefits which the several tracts of land shall receive with respect to each other from the organization and operation of the district and the construction and maintenance of the district works in accordance with the comprehensive plan therefor adopted by the directors of the district. [1985 c 396 § 65; 1965 c 26 § 11; 1937 c 72 § 130; RRS § 9663E-130. Formerly RCW 86.08.420, part, and 86.08.430, part.]

86.09.391 Assessments—Appraisers' board, chair, and secretary—Compensation and expenses. The board of appraisers shall elect a member as chair and the secretary of the district or his or her deputy shall be ex officio secretary of the board of appraisers. The appraisers shall receive such

compensation and expenses as the board of directors of the district, with the approval of the county legislative authority of the county within which the major portion of the district is situated, shall determine, and which may forthwith be paid by the issuance of district warrants. [2013 c 23 § 456; 1985 c 396 § 66; 1937 c 72 § 131; RRS § 9663E-131. Formerly RCW 86.08.420, part.]

86.09.394 Assessments—Classification of lands according to benefits—Factors considered. For the purpose of determining said ratios of benefits, said board of appraisers shall segregate the acreage of the respective lands within the district into such number of classes as in the sole judgment of the members of the board of appraisers shall fairly represent the manifest degrees of benefits, including benefits from better sanitation, easier accessibility, facility of drainage, promotion of land development as well as from minimization of flood damages and from actual flood protection, accruing to the several lands from the organization and operation of the district and the construction and maintenance of the district works in accordance with the comprehensive plan therefor adopted by the directors of the district. [1937 c 72 § 132; RRS § 9663E-132. Formerly RCW 86.08.440, part.]

86.09.397 Assessments—Classification of lands by appraisers—Classes described. Said board of appraisers shall have full authority and it shall be its duty to segregate and classify the acreage of the lands and subdivisions of the same with respect to their respective relative benefits received and to be received from the organization and operation of the district and the construction and maintenance of the district works in accordance with the comprehensive plan therefor adopted by the directors of the district. Those lands receiving the greatest benefits shall be placed in class No. 1; those lands receiving the next greatest benefits shall be placed in class No. 2, and so on down to the class of the least benefits. Those lands receiving no benefits shall be designated "nonbenefited." [1937 c 72 § 133; RRS § 9663E-133. Formerly RCW 86.08.430, part.]

86.09.400 Assessments—Percentage of benefits to lands as classed—Relative ratios. Said board of appraisers shall have full authority and it shall be its duty to determine the percentage of benefits which the acreage of the lands in each class shall have with respect to the lands in class No. 1. Those lands falling in class No. 1 shall have the ratio or percentage of one hundred and those lands in the other respective classes shall be given such percentages of the lands in class No. 1 as said board of appraisers shall determine. [1937 c 72 § 134; RRS § 9663E-134. Formerly RCW 86.08.430, part.]

86.09.403 Assessments—Surveys, investigations to determine classification and benefits. In determining the classification of said lands and their relative percentages of benefits, as herein provided, said board of appraisers shall consider the benefits of every kind accruing to said lands, as aforesaid, and shall make such investigation and surveys of the same as said board of appraisers shall deem necessary. The board of appraisers shall also examine and consider the

data and records of the commission which fixed the boundaries of the district. [1937 c 72 § 135; RRS § 9663E-135. Formerly RCW 86.08.440, part.]

86.09.406 Assessments—Permanency of ratios of benefits as fixed. The ratio of percentage determined by said board of appraisers for each class of lands aforesaid shall constitute the ratio of benefits of each acre or fraction thereof in its respective class for all district assessment purposes until changed in the manner herein provided. [1937 c 72 § 136; RRS § 9663E-136. Formerly RCW 86.08.450, part.]

86.09.409 Assessments—Alternative method of determining benefit ratios. As an independent and alternative method to any other method herein authorized and subject to the prior written approval of the county legislative authority of the county within which the major portion of the district is situated, the ratio of benefits herein mentioned may be determined in their relation to the relative values of the respective benefited lands, including the improvements thereon, and the same shall be expressed on a relative percentage basis. [1985 c 396 § 67; 1937 c 72 § 137; RRS § 9663E-137. Formerly RCW 86.08.460, part.]

86.09.412 Assessments—Alternative method, percentage shall fix the class. In case said alternative method of determining the ratio of benefits is adopted by any such district the percentage given a tract of land shall fix the class to which said tract belongs for assessment purposes. [1937 c 72 § 138; RRS § 9663E-138. Formerly RCW 86.08.460, part.]

86.09.415 Assessments—Determining relative values—General tax rolls. In determining the relative values of such lands, including improvements thereon, the assessed valuation of the same for general tax purposes last equalized shall be construed to be prima facie correct: PROVIDED, That nothing herein contained shall be construed to prevent the fixing of values where none are shown on the general tax roll or the revision of such values on the general tax roll in any instance where in the sole judgment of the revising officers for the district the value for general tax purposes is manifestly and grossly erroneous in its relation to value of like property in the district similarly situated: AND PROVIDED FURTHER, That in any instance where any tract of land is protected or partially protected from floods and is financially supporting the works affording such protection the revising officers for the district shall take the value of such existing flood protection into consideration and give such land equitable credit therefor. [1937 c 72 § 139; RRS § 9663E-139. Formerly RCW 86.08.460, part.]

86.09.418 Assessments—Revision of benefit classification—Appointment of reappraisers—Effect of reexamination. Upon completion of the control works of the district or of any unit thereof, the board of directors of the district may, with the written consent of the county legislative authority of the county within which the major portion of the district is situated, and upon petition signed by landowners representing twenty-five percent of the acreage of the lands in the district or twenty-five percent of the value of the assessments of the district shall, appoint three qualified persons

who shall be approved in writing by the county legislative authority, to act as a board of appraisers and who shall reconsider and revise and/or reaffirm the classification and relative percentages, or any part or parts thereof, in the same manner and with the same legal effect as that provided herein for the determination of such matters in the first instance: PROVIDED, That such reexamination shall have no legal effect on any assessments regularly levied prior to the order of appraisal by the reexamining board of appraisers. [2017 c 67 § 1; 1985 c 396 § 68; 1937 c 72 § 140; RRS § 9663E-140. Formerly RCW 86.08.470, part.]

86.09.419 Assessments—Revision of benefit classification, when subdivision, adjustment, or change in use of tract—Effect of reexamination, process limitation. (1) Upon completion of the control works of the district or of any unit of the district, when there is any subdivision, short subdivision, parcel segregation or merger, lot-line adjustment, or other change in the land use characteristics of any tract or tracts of land within the boundaries of the district, occurring after completion of the most recent examination or reexamination of the benefit classification of the lands within the boundaries of the district pursuant to RCW 86.09.388 through 86.09.418, the board of directors of the district may, with the written consent of the county legislative authority of the county within which the major portion of the district is situated, and without a landowner petition or formation of a board of appraisers, reconsider and revise and/or reaffirm the classification and relative percentages assigned to such a tract or tracts consistent with the current district classifications and benefit percentages, in the same manner and with the same legal effect as provided for in this chapter for the determination of these matters originally. However, such a reexamination has no legal effect on any assessment regularly levied prior to the order of appraisal by the reexamining board of directors.

(2) The reexamination process provided in subsection (1) of this section may occur no more than once per calendar year. [2017 c 67 § 2.]

86.09.421 Assessments—Descriptions of lands as appraised and classified—Map and filing thereof. When said board of appraisers shall have made said determination of the ratio of benefits, as aforesaid, all the lands within the district shall be classified and properly designated and shall be described in terms of government sections, and fractions thereof in designated townships and ranges, on the base map, and the board of appraisers shall file said map with the secretary of the district: PROVIDED, That platted lands may be described in terms of the recorded plat thereof. [1937 c 72 § 141; RRS § 9663E-141. Formerly RCW 86.08.470, part.]

86.09.424 Assessments—Hearing on objections to assessment ratios—Time—Place. The secretary of the district shall immediately fix a time for hearing objections to the assessment ratios determined by said board of appraisers as shown on said base map. The meeting shall be at the office of the district board and principal place of business of the district and shall be held not less than twenty-five, nor more than thirty-five, days from the date of the first publication of the

notice of the hearing. [1937 c 72 § 142; RRS § 9663E-142. Formerly RCW 86.08.475, part.]

86.09.427 Assessments—Notice of hearing, publication. Notice of said hearing shall be given by the secretary of the district by causing a copy of the same to be published for three consecutive weekly issues in a newspaper of general circulation, to be selected by said secretary, published in each of the counties in which any part of the district is located. [1937 c 72 § 143; RRS § 9663E-143. Formerly RCW 86.08.475, part.]

86.09.430 Assessments—Contents of notice of hearing. Said notice of hearing on said determination of assessment ratios shall state that the base assessment map designating the classes in which the lands in the district have been placed for assessment purposes on the ratios authorized by law, has been prepared by the board of appraisers and is on file at the office of the district board and may be inspected at any time during office hours; that a hearing on said map will be held before the county legislative authority at the office of the district board on, the day of,, at the hour of o'clock (naming the time), where any person may appear and present such objections, if any, he or she may have to said map, and shall be signed by the secretary of the district. [2013 c 23 § 457; 1986 c 278 § 43; 1937 c 72 § 144; RRS § 9663E-144. Formerly RCW 86.08.480.]

Additional notes found at www.leg.wa.gov

86.09.433 Assessments—Conduct of hearing—Order. At the time set for said hearing the county legislative authority shall be present at the place designated in the notice and if it appears that due notice of the hearing has been given, shall proceed to hear such objections to the base map as shall be presented and shall hear all pertinent evidence that may be offered. The county legislative authority shall have authority to adjourn said hearings from time to time to study the record and evidence presented, to make such independent investigation as it shall deem necessary and to correct, modify, or confirm the things set out on said base map or any part thereof and to determine all questions concerning the matter and shall finally make an order confirming said map with such substitutions, changes, or corrections, if any, as may have been made thereon, which order shall be signed by the chair of the county legislative authority and attached to said map. [2013 c 23 § 458; 1985 c 396 § 69; 1937 c 72 § 145; RRS § 9663E-145. Formerly RCW 86.08.485, part.]

86.09.439 Assessments—Conclusiveness of base assessment map. Upon the signing of said order by said county legislative authority and the attachment of the same to said base assessment map, said base assessment map and all things set out on the face thereof shall be conclusive in all things upon all parties, unless appealed from to the superior court in the manner and within the time herein provided. [1986 c 278 § 44; 1937 c 72 § 147; RRS § 9663E-147. Formerly RCW 86.08.485, part.]

Additional notes found at www.leg.wa.gov

86.09.442 Assessments—Copies of base assessment map to be filed with county assessors. When confirmed by

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order of said county legislative authority as aforesaid, or by order of said county legislative authority making any changes decreed by the court on appeal to the superior court, it shall be the duty of the secretary of the district to prepare a correct copy of so much of said base assessment map as includes the lands in the district situated in each county in which the lands in the district are situated, with the assessment classes and ratios properly designated thereon, and file the same with the respective county assessors of said counties for record therein. [1985 c 396 § 70; 1937 c 72 § 148; RRS § 9663E-148. Formerly RCW 86.08.500, part.]

86.09.445 Assessments—Levies to be made according to base assessment map. Assessments made against the respective lands in the district to carry out any of the purposes of this chapter shall be levied in accordance with their respective classifications and in proportion to their respective ratios of benefits, set out on the base assessment map. [1937 c 72 § 149; RRS § 9663E-149. Formerly RCW 86.08.500, part.]

86.09.448 Assessments—Appeal to courts. Any person, firm, or corporation feeling aggrieved at any determination by said county legislative authority of the classification or relative percentage of his or her or its lands, aforesaid, may have the same reviewed by a proceeding for that purpose, in the nature of an appeal, initiated in the superior court of the county in which the land affected is situated. The matter shall be heard and tried by the court and shall be informal and summary but full opportunity to be heard and present evidence shall be given before judgment is pronounced. [2013 c 23 § 459; 1985 c 396 § 71; 1937 c 72 § 150; RRS § 9663E-150. Formerly RCW 86.08.490, part.]

86.09.451 Assessments—Notice of appeal. No such appeal shall be entertained by the court unless notice of the same containing a statement of the substance of the matter complained of and the manner in which the same injuriously affects the appellant's interests shall have been served personally or by registered mail, upon the county legislative authority of the county within which the major portion of the district is situated, and upon the secretary of the district, within twenty days following the date of the determination appealed from. [1985 c 396 § 72; 1937 c 72 § 151; RRS § 9663E-151. Formerly RCW 86.08.490, part.]

86.09.454 Assessments—Appeal—Stay bond, when required. No bond shall be required unless a stay is desired, and an appeal shall not be a stay, unless within five days following the service of notice of appeal aforesaid, a bond shall be filed in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court. [1937 c 72 § 152; RRS § 9663E-152. Formerly RCW 86.08.490, part.]

86.09.457 Assessments—Civil practice to apply—Costs, liability of district. Costs shall be paid as in civil cases brought in the superior court, and the practices in civil cases shall apply: PROVIDED, That any costs awarded against said county legislative authority shall be in its official capacity only and shall be against and paid by the district.

[1985 c 396 § 73; 1937 c 72 § 153; RRS § 9663E-153. Formerly RCW 86.08.495, part.]

Civil practice generally: Title 4 RCW; Rules of court.

Costs, generally: Chapter 4.84 RCW.

86.09.460 Assessments—Appeal from superior to supreme court. An appeal shall lie from the judgment of the superior court as in other civil cases. [1937 c 72 § 154; RRS § 9663E-154. Formerly RCW 86.08.495, part.]

86.09.463 Assessments—County legislative authority's determination deemed prima facie correct on appeal. In all said appeals from the determination of said county legislative authority, as herein provided, said determination and all parts thereof shall be deemed to be prima facie correct. [1985 c 396 § 74; 1937 c 72 § 155; RRS § 9663E-155. Formerly RCW 86.08.490, part.]

86.09.466 Assessments—District budget—Approval—Basis for assessment roll. The secretary of the district on or before the first day of November in each year shall estimate the amount of money necessary to be raised for any and all district purposes during the ensuing year based upon a budget furnished him or her by the district board and submit the same to the county legislative authority of the county within which the major portion of the district is situated for its suggestions, approval, and revision and upon the approval of the budget by said county legislative authority, either as originally submitted or as revised, the secretary shall prepare an assessment roll with appropriate headings in which must be listed all the lands in each assessment classification shown on the base assessment map. [2013 c 23 § 460; 1985 c 396 § 75; 1937 c 72 § 156; RRS § 9663E-156. Formerly RCW 86.08.510, part.]

86.09.469 Assessments—Assessment roll, contents—Headings. On such assessment roll in separate columns, must be specified under the appropriate headings:

(1) The reputed owner of the property assessed. If the reputed owner is not known to the secretary, the reputed owner may be stated as "unknown";

(2) The description of the land of the reputed or unknown owner sufficiently definite to identify the land. Where the land is described in the records of the county assessor's office in terms of the assessor's plat tax number, such designation shall be sufficient description of such land on the district's assessment roll. In instances where the district has adopted the alternative method of determining the ratio of benefits as herein authorized the secretary shall annually revise and specify in an appropriate column on the roll the cash value of the respective tracts of lands, including improvements thereon, described on the roll;

(3) The estimated assessable acreage of such respective lands;

(4) The designated classification and their respective ratios of benefits shown on the base assessment map in which the land is situated, with the per acre final ratio or percentage upon which every acre or fraction thereof of the respective lands are to be charged with assessments;

(5) The total amount of the assessment in dollars and cents against each tract of land. [1937 c 72 § 157; RRS § 9663E-157. Formerly RCW 86.08.520, part.]

86.09.472 Assessments—Margin for anticipated delinquencies. For the purpose of apportioning the amount of money to be raised by assessment, to the several tracts of land in accordance with their respective classifications, the secretary shall add to the amount of money to be raised fifteen percent thereof for anticipated delinquencies. [1937 c 72 § 158; RRS § 9663E-158. Formerly RCW 86.08.510, part.]

86.09.475 Assessments—How calculated. In calculating the amount of assessments to be charged against the respective tracts of land included in the annual district assessment roll, the per acre charge against the lands in class No. 1 on the base map shall be taken as one hundred percent and the per acre charge against the lands in other classes shall be reckoned on their respective final per acre percentages of the per acre assessment against the lands in said class No. 1. [1937 c 72 § 159; RRS § 9663E-159. Formerly RCW 86.08.530.]

86.09.478 Assessments—Omitted property may be back-assessed. Any property which may have escaped assessment for any year or years, shall in addition to the assessment for the then current year, be assessed for such year or years with the same effect and with the same penalties as are provided for such current year and any property delinquent in any year may be directly assessed during the current year for any expenses caused the district on account of such delinquency. [1937 c 72 § 160; RRS § 9663E-160. Formerly RCW 86.08.550.]

86.09.481 Assessments—Lands in more than one county. Where the district embraces lands lying in more than one county the assessment roll shall be so arranged that the lands lying in each county shall be segregated and grouped according to the county in which the same are situated. [1937 c 72 § 161; RRS § 9663E-161. Formerly RCW 86.08.520, part.]

86.09.484 Equalization of assessments—Notice and time for meeting of board of equalization. Upon completion of the assessment roll the secretary shall deliver the same to the district board and immediately give notice thereof and of the time the board of directors, acting as a board of equalization will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice, and in the meantime the assessment roll must remain in the office of the secretary for the inspection of all persons interested. [1937 c 72 § 162; RRS § 9663E-162. Formerly RCW 86.08.540, part.]

86.09.487 Equalization of assessments—Meeting of directors as board, length of time—Completion of roll. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose,

shall meet and continue in session from day to day as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the said assessment roll as may come before them; and the board may decide the same. The secretary of the board shall be present during its session, and note all changes made at said hearing, and on or before the fifteenth day of January thereafter shall have the assessment roll completed as finally equalized by the board. [1937 c 72 § 163; RRS § 9663E-163. Formerly RCW 86.08.540, part.]

86.09.489 Levy where total assessment less than two dollars. When the assessment roll is completed as finally equalized by the board of directors and the total assessment against any tract or contiguous tracts owned by one person or corporation is less than two dollars, the county treasurer shall levy such a minimum amount of two dollars against such tract or contiguous tracts. [1965 c 26 § 13.]

86.09.490 Assessment lien—Priority. The assessment upon real property shall be a lien against the property assessed, from and after the first day of January in the year in which the assessment becomes due and payable, but as between grantor and grantee such lien shall not attach until the county treasurer has completed the property tax roll for the current year's collection and provided the notification required by RCW 84.56.020. The lien shall be paramount and superior to any other lien theretofore or thereafter created, whether by mortgage or otherwise, except a lien for undelinquent flood control district assessments, diking or drainage, or diking or drainage improvement, district assessments and for unpaid and outstanding general ad valorem taxes, and such lien shall not be removed until the assessments are paid or the property sold for the payment thereof as provided by law. [2009 c 350 § 3; 1937 c 72 § 164; RRS § 9663E-164. Formerly RCW 86.08.560, part.]

86.09.493 Payment of assessment—Date of delinquency—Notice to pay—Assessment book—Statements. On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregations thereof to the county treasurer of each respective county in which the lands described are located, with a statement of the amounts and/or percentages of the collections on said roll which shall be apportioned to the respective district funds, and said assessments shall become due and payable at the time or times general taxes accrue payable.

One-half of all assessments on said roll shall become delinquent on the first day of June following the filing of the roll unless said one-half is paid on or before the thirty-first day of May of said year, and the remaining one-half shall become delinquent on the first day of December following, unless said one-half is paid on or before the thirtieth day of November. All delinquent assessments shall bear interest at the rate of ten percent per annum from the date of delinquency until paid.

Within twenty days after the filing of the assessment roll as aforesaid the respective county treasurers shall each publish a notice in a newspaper published in their respective counties in which any portion of the district may lie, that said assessments are due and payable at the office of the county

treasurer of the county in which said land is located and will become delinquent unless paid as herein provided. Said notice shall state the dates of delinquency as fixed in this chapter and the rate of interest charged thereon and shall be published once a week for four successive weeks and shall be posted within said period of twenty days in some public place in said district in each county in which any portion of the district is situated.

Upon receiving the assessment roll, the county treasurer shall prepare therefrom an assessment book in which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

Upon payment of any assessment the county treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying, and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed.

It shall be the duty of the county treasurer of the county in which any land in the district is located to furnish upon request of the owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his or her office upon land described in such request, and all statements of general taxes covering any land in the district shall be accompanied by a statement showing the condition of district assessments against such lands: PROVIDED, That the failure of the county treasurer to render any statement herein required of him or her shall not render invalid any assessments made by any district or proceedings had for the enforcement and collection of district assessments pursuant to this chapter. [2013 c 23 § 461; 1937 c 72 § 165; RRS § 9663E-165. Formerly RCW 86.08.540, part, 86.08.560, part, and 86.08.570.]

86.09.496 Delinquency list—Posting and publication. On or before the thirty-first day of December of each year, the county treasurer of the county in which the land is located shall cause to be posted the delinquency list which must contain the names of persons to whom the property is assessed and a description of the property delinquent and the amount of the assessment and costs due, opposite each name and description.

He or she must append to and post with the delinquency list a notice that unless the assessments delinquent, together with costs and accrued interest, are paid, the real property upon which such assessments are a lien will be sold at public auction. The said notice and delinquent list shall be posted at least twenty days prior to the time of sale. Concurrent as nearly as possible with the date of the posting aforesaid, the said county treasurer shall publish the location of the place where said notice is posted and in connection therewith a notice that unless delinquent assessments together with costs and accrued interest are paid, the real property upon which such assessments are a lien will be sold at public auction. Such notice must be published once a week for three successive weeks in a newspaper of general circulation published in

the county within which the land is located; but said notice of publication need not comprise the delinquent list where the same is posted as herein provided. Both notices must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the date of posting and from the date of the first publication of the notice thereof, and the place must be at some point designated by the treasurer. [2013 c 23 § 462; 1937 c 72 § 166; RRS § 9663E-166. Formerly RCW 86.08.580.]

86.09.499 Sale for delinquent assessments—Postponement. The treasurer of the county in which the land is situated shall conduct the sale of all lands situated therein and must collect in addition to the assessment due as shown on the delinquent list the costs and expenses of sale and interest at the rate of ten percent per annum from the date or dates of delinquency as hereinbefore provided. On the day fixed for the sale, or some subsequent day to which he or she may have postponed it, and between the hours of ten o'clock a.m. and three o'clock p.m., the county treasurer making the sale must commence the same, beginning at the head of the list, and continuing alphabetically, or in the numerical order of the parcels, lots, or blocks, until completed. He or she may postpone the day of commencing the sale, or the sale from day to day, by giving oral notice thereof at the time of the postponement, but the sale must be completed within three weeks from the first day fixed. [2013 c 23 § 463; 1937 c 72 § 167; RRS § 9663E-167. Formerly RCW 86.08.590.]

86.09.502 Sale for delinquent assessments—How conducted—Certificate of sale—District as purchaser—Fee. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate in writing to the county treasurer, by whom the sale is to be made, and prior to the sale, what portion of the property he or she wishes sold, if less than the whole; but if the owner or possessor does not, then the treasurer may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessment and costs due, including one dollar to the treasurer for duplicate of the certificate of sale, is the purchaser. The treasurer shall account to the district for said one dollar. If the purchaser does not pay the assessment and costs before ten o'clock a.m. the following day, the property must be resold on the next sale day for the assessments and costs. In case there is no purchaser in good faith for the same on the first day that the property is offered for sale, and if there is no purchaser in good faith when the property is offered thereafter for sale, the whole amount of the property assessed shall be struck off to the district as the purchaser, and the duplicate certificate shall be delivered to the secretary of the district, and filed by him or her in the office of the district. No charge shall be made for the duplicate certificate where the district is the purchaser, and in such case the treasurer shall make an entry, "Sold to the district", and he or she will be credited with the amount thereof in settlement. The district, as a purchaser at said sale, shall be entitled to the same rights as a private purchaser, and may assign or transfer the certificate of sale upon the payment of the amount which would be due if redemption were being made by the owner. If no redemption is made of land

for which the district holds a certificate of purchase, the district will be entitled to receive the treasurer's deed therefor in the same manner as a private person would be entitled thereto.

After receiving the amount of assessments and costs, the county treasurer must make out in duplicate a certificate, dated on the day of sale, stating (when known) the names of the persons assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and the year of assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the treasurer making the sale and one copy delivered to the purchaser, and the other filed in the office of the county treasurer of the county in which the land is situated: PROVIDED, That upon the sale of any lot, parcel, or tract of land not larger than an acre, the fee for a duplicate certificate shall be twenty-five cents and in case of a sale to a person or a district, of more than one parcel or tract of land, the several parcels or tracts may be included in one certificate. [2013 c 23 § 464; 1937 c 72 § 168; RRS § 9663E-168. Formerly RCW 86.08.600.]

86.09.505 Sale for delinquent assessments—Entries in assessment book—Book open to inspection—Lien vested in purchaser. The county treasurer, before delivering any certificate must file the same and enter in the assessment book opposite the description of the land sold, the date of sale, the purchaser's name and the amount paid therefor, and must regularly number the description on the margin of the assessment book and put a corresponding number on each certificate. Such book must be open to public inspection without fee during office hours, when not in actual use.

On filing the certificate of sale as provided in the preceding paragraph, the lien of the assessment vests in the purchaser and is only divested by the payment to the county treasurer making the sale of the purchase money and interest at the rate of ten percent per annum, from the day of sale until redemption for the use of the purchaser. [1937 c 72 § 169; RRS § 9663E-169. Formerly RCW 86.08.610.]

86.09.508 Sale for delinquent assessments—Redemption, when and how made. A redemption of the property sold may be made by the owner or any person on behalf and in the name of the owner or by any party in interest at any time before deed issues, by paying the amount of the purchase price and interest as in this chapter provided, and the amount of any assessments which such purchaser may have paid thereon after purchase by him or her and during the period of redemption in this section provided, together with like interest on such amount, and if the district is the purchaser, the redemptioner shall not be required to pay the amount of any district assessment levied subsequent to the assessment for which said land was sold, but all subsequent and unpaid assessments levied upon said land to the date of such redemption shall remain a lien and be payable and the land be subject to sale and redemption at the times applicable to such subsequent annual district assessment. Redemption must be made in legal tender, as provided for the collection of state and county taxes, and the county treasurer must credit the amount paid to the person named in the certificate and pay it on demand to such person or his or her assignees. No

redemption shall be made except to the county treasurer of the county in which the land is situated. [2013 c 23 § 465; 1937 c 72 § 170; RRS § 9663E-170. Formerly RCW 86.08.620.]

86.09.511 Sale for delinquent assessments—Entry of redemption—Deed on demand if not redeemed in two years—Fee. Upon completion of redemption, the county treasurer to whom redemption has been made shall enter the word "redeemed", the date of redemption and by whom redeemed on the certificate and on the margin of the assessment book where the entry of the certificate is made. If the property is not redeemed within two years, after the fifteenth day of January of the year in which such property was sold, the county treasurer of the county in which the land sold is situated must thereafter, upon demand of the owner of the certificate of sale, make to the purchaser, or his or her assignees a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The treasurer shall receive from the purchaser, for the use of the district, one dollar for making such deed: PROVIDED, If redemption is not made of any lot, parcel, or tract of land not larger than one acre, the fee for a deed shall be twenty-five cents and when any person or district holds a duplicate certificate covering more than one tract of land, the several parcels, or tracts of lands, mentioned in the certificate may be included in one deed. [2013 c 23 § 466; 1937 c 72 § 171; RRS § 9663E-171. Formerly RCW 86.08.630.]

86.09.514 Sale for delinquent assessments—Effect and validity of deed. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

First. The property was assessed as required by law.

Second. The property was equalized as required by law.

Third. That the assessments were levied in accordance with law.

Fourth. The assessments were not paid.

Fifth. At a proper time and place the property was sold as prescribed by law and by the proper officers.

Sixth. The property was not redeemed.

Seventh. The person who executed the deed was the proper officer.

Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessments by the secretary, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein, free from all incumbrances except the lien of outstanding general ad valorem taxes and of unmatured special assessments. When title to the land is in the United States or this state, such deed shall be prima facie evidence of the right of possession. [1937 c 72 § 172; RRS § 9663E-172. Formerly RCW 86.08.640, part.]

86.09.517 Sale for delinquent assessments—Mistake, misnomer does not affect sale. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership thereof, affects the

sale or renders it void or avoidable. [1937 c 72 § 173; RRS § 9663E-173. Formerly RCW 86.08.640, part.]

86.09.520 District lands exempt from general taxes—Leasing, application of proceeds. All unsold lands owned by the district shall be exempt from general ad valorem taxes while title to same remains in the district. The district shall not be authorized to lease any of its lands for a term longer than one year, and the proceeds for such lease shall first be applied on account of outstanding ad valorem tax liens, if any. [1937 c 72 § 174; RRS § 9663E-174. Formerly RCW 86.08.650.]

86.09.523 Liability of city, town or subdivision for benefits to roads, streets, or sewer systems. Whenever any system of improvement constructed under the provisions of this chapter results in benefit to the whole or any part of a public street or road, street or road bed or track thereof within the district, or will facilitate the construction or maintenance of any sewer system in any city or town within the district, the city, town or subdivision or any of them responsible for the maintenance of said public road, street or sewer, shall be liable for assessment for any or all district purposes. [1937 c 72 § 175; RRS § 9663E-175. Formerly RCW 86.08.660, part.]

86.09.526 Liability of public and private lands for benefits. All school, granted, and other state lands, and lands owned by the United States, when legally possible, and all county, city and other municipally owned property, not used for governmental purposes, and all privately owned lands within the corporate limits of any county, school district, city or other municipal corporation included within the operation of the district and benefited by the district improvement, shall be liable for assessment as provided herein for other property. [1937 c 72 § 176; RRS § 9663E-176. Formerly RCW 86.08.660, part.]

86.09.529 Assessment payment by city, county, subdivision—Payment by state for highway benefit. Assessments charged to any city, town, county, or subdivision thereof shall be paid from any fund of the city, town, county, or subdivision, as its governing body determines. Assessments charged on account of benefits to state highways shall be approved by the secretary of transportation and shall be paid from the state motor vehicle fund. [1984 c 7 § 379; 1937 c 72 § 177; RRS § 9663E-177. Formerly RCW 86.08.660, part.]

86.09.532 District funds—Created. There are hereby created for district purposes the following special funds: (1) Expense fund, (2) surplus fund, (3) suspense fund, (4) general bond fund, (5) utility bond fund, (6) contract fund. [1937 c 72 § 178; RRS § 9663E-178. Formerly RCW 86.08.670.]

86.09.535 District funds—Expense fund—Composition—Use. All assessments collected for administrative, operative and maintenance purposes, all money collected and not otherwise provided for, and any transfers authorized by law from other funds made specifically to the fund, shall be placed by the county treasurer, ex officio treasurer of the dis-

district, in the expense fund, and it shall be the duty of the district board to make ample provision for the requirements of this fund by the levy of assessments or by the use of other revenues of the district. [1937 c 72 § 179; RRS § 9663E-179. Formerly RCW 86.08.675.]

86.09.538 District funds—Surplus fund—Composition—Use. The district shall have authority at its option of turning any district revenues not probably required during the current year to the surplus fund by adopting a resolution to that effect and filing a copy of the same with the county treasurer in charge of such fund. For this purpose unrequired moneys may be transferred from other funds, except from either of the two bond funds.

Assessments, not exceeding twenty percent of the total levy for a given year, may be levied for the purpose of supplying moneys for the surplus fund.

The surplus fund may be used for any district purpose authorized by law, by resolution of the board of directors specifying said purpose, and the duration of such use. [1937 c 72 § 180; RRS § 9663E-180. Formerly RCW 86.08.680.]

86.09.541 District funds—Suspense fund—Composition—Use. All district indebtedness, not otherwise provided for, which has not been or will not be paid on substantially a cash basis, shall be paid from the suspense fund and it shall be the duty of the district board to make ample provision for the requirements of this fund by the levy of assessments or by the use of other revenues of the district, authorized by law to be used for this purpose. [1937 c 72 § 181; RRS § 9663E-181. Formerly RCW 86.08.685.]

86.09.544 District funds—General bond fund—Composition—Use. Moneys in the general bond fund shall be used exclusively for the payment of outstanding general obligation bonds of the district with interest thereon according to their terms. It shall be the duty of the district board to make ample provision for the requirements of this fund by the levy of assessments and/or by the use of other district revenues, authorized by law to be used for this purpose. [1937 c 72 § 182; RRS § 9663E-182. Formerly RCW 86.08.695.]

86.09.547 District funds—Utility bond fund—Composition—Use. Revenues from the use, sale or lease of water and/or other service furnished by the district to the extent pledged to the payment of district utility bonds, as herein provided, shall be placed in the utility bond fund and used exclusively for the payment of such bonds with interest according to their terms. [1937 c 72 § 183; RRS § 9663E-183. Formerly RCW 86.08.700.]

86.09.550 District funds—Contract fund—Composition—Use. The proceeds from bond sales and revenues from other sources authorized by law to be used for district contract purposes shall be placed in the contract fund and shall be used for the purposes for which the bonds were issued or for which any other contract was entered into by the district. [1937 c 72 § 184; RRS § 9663E-184. Formerly RCW 86.08.690.]

86.09.553 District funds—Custody and disbursement. All district moneys shall be paid to the county treasurer having charge of the district funds and by that officer disbursed in the manner provided by law. [1937 c 72 § 185; RRS § 9663E-185. Formerly RCW 86.08.710, part.]

86.09.556 Claims against district. Any claim against the district shall be presented to the district board for allowance or rejection. Upon allowance, the claim shall be attached to a voucher verified by the claimant or his or her agent and approved by the chair of the board and countersigned by the secretary and directed to the county auditor of the county in which the office of the district treasurer is located, for the issuance of a warrant against the proper fund of the district in payment of said claim. [2013 c 23 § 467; 1937 c 72 § 186; RRS § 9663E-186. Formerly RCW 86.08.720, part.]

86.09.559 Claims against district—For administrative expenses, cost, maintenance—Payroll. Claims against the district for administrative expenses and for the costs of operation and maintenance of the system of improvement, shall be allowed by the district board and presented to the county auditor with proper vouchers attached for the issuance of warrants against the expense fund of the district. The payroll of the district shall be verified by the foreman in charge and may be presented in one claim for the individual claimants involved. The warrants for said claim shall be issued in the name of the individual claimants, but may be receipted for by said foreman. [1937 c 72 § 187; RRS § 9663E-187. Formerly RCW 86.08.720, part.]

86.09.562 District funds paid by warrant—Exception. Said county treasurer shall pay out the moneys received or deposited with him or her or any portion thereof upon warrants issued by the county auditor of the same county of which the district treasurer is an officer against the proper funds of the district except the sums to be paid out of the special funds for interest and principal payments on bonds or notes. [2013 c 23 § 468; 1986 c 278 § 45; 1983 c 167 § 202; 1937 c 72 § 188; RRS § 9663E-188. Formerly RCW 86.08.710, part.]

Additional notes found at www.leg.wa.gov

86.09.565 Warrants paid in order of issuance. Warrants drawn on any district fund shall be paid from any moneys in said fund in the order of their issuance. [1937 c 72 § 189; RRS § 9663E-189. Formerly RCW 86.08.710, part.]

86.09.592 Utility revenue bonds—Authorized. In any instance where the district is using, selling or leasing water for beneficial purposes or furnishing other service under the provisions of this chapter and there is reasonable certainty of a permanent fixed income from this source, the district board, upon previous written approval of the county legislative authority of the county within which the major portion of the district is situated, shall have authority to pledge the revenues derived from a fixed proportion of the gross income thus obtained and to issue bonds of the district payable from the utility bond fund and to sell the same to raise money for district purposes. [1985 c 396 § 78; 1937 c 72 § 198; RRS § 9663E-198. Formerly RCW 86.08.790, part.]

86.09.595 Utility revenue bonds—Limited obligation—Payment from special fund. Bonds payable from the utility bond fund shall not be an obligation of the district and they shall state on their face that they are payable solely from a special fund derived from a certain fixed proportion (naming it) of the gross income derived by the district from the sale or lease of water or from other service, as the case may be, and such fixed proportion of such gross income shall be irrevocably devoted to the payment of such bonds with interest until the same are fully paid. [1937 c 72 § 199; RRS § 9663E-199. Formerly RCW 86.08.790, part, and 86.08.800, part.]

86.09.598 Utility revenue bonds—Form, terms, interest, etc. (1) Said utility bonds shall be numbered consecutively, shall mature in series amortized in a definite schedule during a period not to exceed twenty years from the date of their issuance, shall be in such denominations and form and shall be payable, with annual or semiannual interest at such rate or rates and at such place as the county legislative authority of the county within which the major portion of the district is situated shall provide. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1985 c 396 § 79; 1983 c 167 § 207; 1970 ex.s. c 56 § 94; 1969 ex.s. c 232 § 45; 1937 c 72 § 200; RRS § 9663E-200. Formerly RCW 86.08.800, part.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Additional notes found at www.leg.wa.gov

86.09.601 Utility revenue bonds—Election to authorize. For the purpose of authorizing such utility bonds, an election shall be called, noticed, held and canvassed by the same officers, and in the same manner, as provided herein for the calling, noticing, holding and canvassing of an election to authorize general obligation bonds. [1937 c 72 § 201; RRS § 9663E-201. Formerly RCW 86.08.790, part.]

86.09.616 Utility revenue bonds and coupons—Order of payment—When funds deficient. Utility bonds and interest thereon shall be paid in the order of their respective due dates and the bonds and interest of a prior issue shall carry preference in payment over those of a subsequent issue: PROVIDED, That where there is not sufficient money in the utility bond fund to pay all matured demands against the same in accordance with the preference right above mentioned, the county treasurer shall pay the interest on the bonds having the preference right of payment in their numerical order beginning with the bond having the smallest number, to the extent of the available money in the utility bond fund. [1937 c 72 § 206; RRS § 9663E-206. Formerly RCW 86.08.800, part.]

86.09.619 District directors to make provision for payment—Procedure on failure of directors. It shall be the duty of the board of directors of the district to make adequate provision for the payment of all district bonds in accordance with their terms by levy and collection of assessments

or otherwise and upon its failure so to do said levy and collection of assessments shall be made as follows:

(1) If the annual assessment roll has not been delivered to the county treasurer on or before the fifteenth day of January, he or she shall notify the secretary by registered mail that the roll must be delivered to him or her forthwith.

(2) If the roll is not delivered within ten days from the date of mailing the notice, or if the roll has not been equalized and the levy made, the treasurer shall immediately notify the county commissioners of the county in which the office of the directors is situated, and such commissioners shall cause an assessment roll for the district to be prepared and shall equalize it if necessary, and make the levy in the same manner and with like effect as if it had been made and equalized by the directors, and all expenses incident thereto shall be borne by the district.

(3) In case of neglect or refusal of the secretary to perform his or her duties, the district treasurer shall perform them, and shall be accountable therefor, on his or her official bond, as in other cases. [2013 c 23 § 469; 1965 c 26 § 12; 1937 c 72 § 207; RRS § 9663E-207. Formerly RCW 86.08.820, part.]

86.09.621 Special assessment bonds. Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW. [1986 c 278 § 28.]

Additional notes found at www.leg.wa.gov

86.09.622 Dissolution of districts—Procedure. Flood control districts may be dissolved upon a favorable sixty percent vote of the electors voting at an election for that purpose called, noticed, conducted and canvassed in the manner provided in this chapter for special elections and no further district obligations shall thereafter be incurred: PROVIDED, That the election shall not abridge or cancel any of the outstanding obligations of the district, and the county legislative authority of the county within which the major portion of the district is situated shall each year at the time and in the manner provided in this chapter for the levy of district assessments, levy assessments against the lands in the district and the same shall be collected and enforced in the manner provided herein, until the outstanding obligations of the district are fully paid. [1985 c 396 § 83; 1937 c 72 § 208; RRS § 9663E-208. Formerly RCW 86.08.830, part.]

Dissolution of districts: Chapter 53.48 RCW.

86.09.625 Dissolution of districts—When complete. When the obligations have been fully paid, all moneys in any of the funds of the district and all collections of unpaid district assessments shall be transferred to the general fund of the county within which the major portion of the district is situated as partial reimbursement for moneys expended and services rendered by the county for and in behalf of the district, and thereupon the county legislative authority of that county shall file a statement of the full payment of the district's obligations for record in the county auditor's office in each county in which any lands in the district were situated and thereafter the dissolution of the district shall be complete and its corporate existence ended. [1985 c 396 § 84; 1937 c 72 § 209; RRS § 9663E-209. Formerly RCW 86.08.830, part.]

Reclamation revolving fund abolished, moneys transferred to reclamation revolving account: RCW 43.79.330 through 43.79.334.

86.09.700 Revision of district—Petition. A board may amend the district comprehensive plan of flood control, alter, reduce or enlarge the district system of improvement, within or without the district, and change the district boundaries so as to include land likely to be benefited by said amendment, alteration, reduction or enlargement by filing a petition to that effect with the county legislative authority of the county within which the major portion of the district is situated. [1985 c 396 § 85; 1965 c 26 § 14.]

86.09.703 Revision of district—Establishment of revised district—Review of benefits—Liability of original district—Segregation of funds. If funds are available the county legislative authority shall, at the expense of the county, refer the petition to the county engineer for a preliminary investigation as to the feasibility of the objects sought by the petition. If the investigation discloses that the matter petitioned for is feasible, conducive to the public welfare, consistent with a comprehensive plan of development and in the best interest of the district and will promote the purposes for which the district was organized, the county legislative authority shall so find, approve the petition, enter an order in his or her records declaring the establishment of the new boundaries as petitioned for, or as modified by him or her, and file a certified copy of the order with each county auditor, without filing fee, and with the board.

The board shall forthwith cause a review of the classifications and ratio of benefits, in the same manner and with the same effect as for the determination of such matters in the first instance.

The lands in the original district shall remain bound for the whole of the original unpaid assessment thereon for the payment of any outstanding warrants or bonds to be paid by such assessments. Until the assessments are collected and all indebtedness of the original district paid, separate funds shall be maintained for the original district and the revised district. [2013 c 23 § 470; 1985 c 396 § 86; 1965 c 26 § 15.]

86.09.710 Annexation of territory—Consolidation of special districts—Suspension of operations—Reactivation. Flood control districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW. [1986 c 278 § 16.]

Additional notes found at www.leg.wa.gov

86.09.720 Cooperative watershed management. In addition to the authority provided in this chapter, flood control districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including without limitation those under chapter 39.34 RCW, under chapter 39.106 RCW, and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management. [2011 c 258 § 15; 2003 c 327 § 18.]

Short title—Purpose—Intent—2011 c 258: See RCW 39.106.010.

Finding—Intent—2003 c 327: See note following RCW 39.34.190.

86.09.900 Other statutes preserved. Nothing in this chapter contained shall be construed as affecting or in any wise limiting the powers of counties, cities, towns, diking districts, drainage districts, or other municipal or public agencies in the manner authorized by law to construct and maintain dikes, levees, embankments or other structures and works, or to open, deepen, straighten and otherwise enlarge natural water courses, waterways and other channels, for the purpose of protecting such organizations from overflow. [1937 c 72 § 210; RRS § 9663E-210.]

86.09.910 Chapter supplemental to other acts. Nothing in this chapter contained shall be held or construed as in any manner abridging, enlarging or modifying any statute now or hereafter existing relating to the organization, operation and dissolution of flood control districts. This chapter is intended as an independent chapter providing for a separate and an additional authority from and to any other authority now existing for the organization, operation and dissolution of flood control districts, as provided in this chapter. [1937 c 72 § 211; RRS § 9663E-211.]

86.09.920 Chapter liberally construed. The provisions of this chapter and all proceedings thereunder shall be liberally construed with a view to effect their objects. [1937 c 72 § 212; RRS § 9663E-212.]

Chapter 86.12 RCW

FLOOD CONTROL BY COUNTIES

Sections

COUNTY FLOOD CONTROL

- 86.12.010 County tax for river improvement fund—Flood control maintenance account.
- 86.12.020 Authority to make improvements—Condemnation.
- 86.12.030 Eminent domain, how exercised.
- 86.12.033 Expenses to be paid out of river improvement fund.
- 86.12.034 County entitled to abandoned channels, beds, and banks.

IMMUNITY FROM LIABILITY

- 86.12.037 Liability of counties, cities, and other special purpose districts to others.

COMPREHENSIVE FLOOD CONTROL MANAGEMENT PLANS

- 86.12.200 Comprehensive flood control management plan—Elements.
- 86.12.210 Comprehensive flood control management plan—Participation of local officials—Arbitration of disputed issues.
- 86.12.220 Advisory committees.

COUNTY FLOOD CONTROL

86.12.010 County tax for river improvement fund—Flood control maintenance account. The county commissioners of any county may annually levy a tax, beginning with the year 1907, in such amount as, in their judgment they may deem necessary or advisable, but not to exceed twenty-five cents per thousand dollars of assessed value upon all taxable property in such county, for the purpose of creating a fund to be known as "river improvement fund." There is hereby created in each such river improvement fund an account to be known as the "flood control maintenance account." [1973 1st ex.s. c 195 § 129; 1941 c 204 § 8; 1907 c 66 § 1; Rem. Supp. 1941 § 9625. FORMER PART OF SECTION: 1907 c 66 § 4, now codified as RCW 86.12.033.]

Limitation on levies: State Constitution Art. 7 § 2 (Amendments 55 and 59); chapter 84.52 RCW.

Additional notes found at www.leg.wa.gov

86.12.020 Authority to make improvements—Condemnation. Said fund shall be expended for the purposes in this chapter provided. Any county, for the control of waters subject to flood conditions from streams, tidal or other bodies of water affecting such county, may inside or outside the boundaries of such county, construct, operate and maintain dams and impounding basins and dikes, levees, revetments, bulkheads, rip-rap or other protection; may remove bars, logs, snags and debris from and clear, deepen, widen, straighten, change, relocate or otherwise improve and maintain stream channels, main or overflow; may acquire any real or personal property or rights and interest therein for the prosecution of such works or to preserve any floodplain or regular or intermittent stream channels from any interference to the free or natural flow of flood or stormwater; and may construct, operate and maintain any and all other works, structures and improvements necessary for such control; and for any such purpose may purchase, condemn or otherwise acquire land, property or rights, including beds of nonnavigable waters and state, county and school lands and property and may damage any land or other property for any such purpose, and may condemn land and other property and rights and interests therein and damage the same for any other public use after just compensation having been first made or paid into court for the owner in the manner prescribed in this chapter. The purposes in this chapter specified are hereby declared to be county purposes. [1970 ex.s. c 30 § 10; 1941 c 204 § 9; 1935 c 162 § 1; 1919 c 109 § 1; 1907 c 66 § 2; Rem. Supp. 1941 § 9626.]

Authority and power of counties are supplemental: RCW 36.89.062.

Stormwater control facilities, county powers and authority: Chapter 36.89 RCW.

86.12.030 Eminent domain, how exercised. The taking and damaging of land, property or rights therein or thereto by any county, either inside or outside of such county, for flood control purposes of the county is hereby declared to be for a public use. Such eminent domain proceedings shall be in the name of the county, shall be had in the county where the property is situated, and may unite in a single action proceedings to condemn for county use property held by separate owners, the jury to return separate verdicts for the several lots, tracts or parcels of land, or interest therein, so taken or damaged. The proceedings may conform to the provisions of *sections 921 to 926, inclusive, of Remington's Revised Statutes, or to any general law now or hereafter enacted governing eminent domain proceedings by counties. The title so acquired by the county shall be the fee simple title or such lesser estate as shall be designated in the decree of appropriation. The awards in and costs of such proceedings shall be payable out of the river improvement fund. [1941 c 204 § 10; 1907 c 66 § 3; Rem. Supp. 1941 § 9627.]

***Reviser's note:** "Sections 921 to 926, inclusive, of Remington's Revised Statutes" (except for section 923) are codified as RCW 8.20.010 through 8.20.080. Section 923 was repealed by 1935 c 115 § 1 but compare the first paragraph of RCW 8.28.010 relating to the same subject matter as the repealed section.

(2018 Ed.)

86.12.033 Expenses to be paid out of river improvement fund. All expenses to be incurred in accomplishing the objects authorized by this act shall be paid out of said river improvement fund and which fund shall be used for no other purpose than the purposes contemplated by this chapter. [1907 c 66 § 4; RRS § 9628. Formerly RCW 86.12.010, part.]

86.12.034 County entitled to abandoned channels, beds, and banks. Whenever a county of this state, acting pursuant to RCW 86.12.010 through 86.12.033, shall make an improvement in connection with the course, channel or flow of a navigable river, thereby causing it to abandon its existing channel, bed, bank or banks for the entire distance covered by said improvement, or for any part or portion thereof, or by said improvement shall prevent a river from resuming at a future time an ancient or abandoned channel or bed, or shall construct improvements intended so to do, all the right, title and interest of the state of Washington in and to said abandoned channel or channels, bed or beds, bank or banks, up to and including the line of ordinary high water, shall be and the same is hereby given, granted and conveyed to the county making such improvement: PROVIDED, HOWEVER, That any such gift, grant or conveyance shall be subject to any right, easement or interest heretofore given, granted or conveyed to any agency of the state. [1963 c 90 § 1.]

IMMUNITY FROM LIABILITY

86.12.037 Liability of counties, cities, and other special purpose districts to others. No action shall be brought or maintained against any county, city, diking district, or flood control zone district when acting alone or when acting jointly with any other county, city, or flood control zone district under any law, or any of its or their agents, officers, or employees, for any noncontractual acts or omissions of such county or counties, city or cities, diking district or districts, flood control zone district or districts, or any of its or their agents, officers, or employees, relating to the improvement, protection, regulation, and control for flood prevention and navigation purposes of any river or its tributaries and the beds, banks, and waters thereof: PROVIDED, That nothing contained in this section shall apply to or affect any action now pending or begun prior to the passage of this section. [2010 c 46 § 1; 1921 c 185 § 1; RRS § 9663. Formerly RCW 87.12.180.]

COMPREHENSIVE FLOOD CONTROL MANAGEMENT PLANS

86.12.200 Comprehensive flood control management plan—Elements. The county legislative authority of any county may adopt a comprehensive flood control management plan for any drainage basin that is located wholly or partially within the county.

A comprehensive flood control management plan shall include the following elements:

(1) Designation of areas that are susceptible to periodic flooding, from inundation by bodies of water or surface water runoff, or both, including the river's meander belt or floodway;

(2) Establishment of a comprehensive scheme of flood control protection and improvements for the areas that are subject to such periodic flooding, that includes: (a) Determining the need for, and desirable location of, flood control improvements to protect or preclude flood damage to structures, works, and improvements, based upon a cost/benefit ratio between the expense of providing and maintaining these improvements and the benefits arising from these improvements; (b) establishing the level of flood protection that each portion of the system of flood control improvements will be permitted; (c) identifying alternatives to in-stream flood control work; (d) identifying areas where flood waters could be directed during a flood to avoid damage to buildings and other structures; and (e) identifying sources of revenue that will be sufficient to finance the comprehensive scheme of flood control protection and improvements;

(3) Establishing land use regulations that preclude the location of structures, works, or improvements in critical portions of such areas subject to periodic flooding, including a river's meander belt or floodway, and permitting only flood-compatible land uses in such areas;

(4) Establishing restrictions on construction activities in areas subject to periodic floods that require the flood proofing of those structures that are permitted to be constructed or remodeled; and

(5) Establishing restrictions on land clearing activities and development practices that exacerbate flood problems by increasing the flow or accumulation of flood waters, or the intensity of drainage, on low-lying areas. Land clearing activities do not include forest practices as defined in chapter 76.09 RCW.

A comprehensive flood control management plan shall be subject to the minimum requirements for participation in the national flood insurance program, requirements exceeding the minimum national flood insurance program that have been adopted by the department of ecology for a specific floodplain pursuant to RCW 86.16.031, and rules adopted by the department of ecology pursuant to RCW 86.26.050 relating to floodplain management activities. When a county plans under chapter 36.70A RCW, it may incorporate the portion of its comprehensive flood control management plan relating to land use restrictions in its comprehensive plan and development regulations adopted pursuant to chapter 36.70A RCW. [1991 c 322 § 3.]

Findings—Intent—1991 c 322: "(1) The legislature finds that:

(a) Floods pose threats to public health and safety including loss or endangerment to human life; damage to homes; damage to public roads, highways, bridges, and utilities; interruption of travel, communication, and commerce; damage to private and public property; degradation of water quality; damage to fisheries, fish hatcheries, and fish habitat; harm to livestock; destruction or degradation of environmentally sensitive areas; erosion of soil, stream banks, and beds; and harmful accumulation of soil and debris in the beds of streams or other bodies of water and on public and private lands;

(b) Alleviation of flood damage to property and to public health and safety is a matter of public concern;

(c) Many land uses alter the pattern of runoff by decreasing the ability of upstream lands to store waters, thus increasing the rate of runoff and attendant downstream impacts; and

(d) Prevention of flood damage requires a comprehensive approach, incorporating stormwater management and basin-wide flood damage protection planning.

(2) County legislative authorities are encouraged to use and coordinate all the regulatory, planning, and financing mechanisms available to those

jurisdictions to address the problems of flooding in an equitable and comprehensive manner.

(3) It is the intent of the legislature to develop a coordinated and comprehensive state policy to address the problems of flooding and the minimization of flood damage." [1991 c 322 § 1.]

Purpose—1991 c 322: "The purpose of sections 3 through 13 of this act is to permit counties in cooperation and consultation with cities and towns to adopt a comprehensive system of flood control management and protection within drainage basins and to coordinate the flood control activities of the state, counties, cities, towns, and special districts within such drainage basins." [1991 c 322 § 2.]

86.12.210 Comprehensive flood control management plan—Participation of local officials—Arbitration of disputed issues. A comprehensive flood control management plan that includes an area within which a city or town, or a special district subject to chapter 85.38 RCW, is located shall be developed by the county with the full participation of officials from the city, town, or special district, including conservation districts, and appropriate state and federal agencies. Where a comprehensive flood control management plan is being prepared for a river basin that is part of the common boundary between two counties, the county legislative authority of the county preparing the plan may allow participation by officials of the adjacently located county.

Following adoption by the county, city, or town, a comprehensive flood control management plan shall be binding on each jurisdiction and special district that is located within an area included in the plan. If within one hundred twenty days of the county's adoption, a city or town does not adopt the comprehensive flood control management plan, the city or county shall request arbitration on the issue or issues in dispute. If parties cannot agree to the selection of an arbitrator, the arbitrator shall be selected according to the process described in *RCW 7.04.050. The cost of the arbitrator shall be shared equally by the participating parties and the arbitrator's decision shall be binding. Any land use regulations and restrictions on construction activities contained in a comprehensive flood control management plan applicable to a city or town shall be minimum standards that the city or town may exceed. A city or town undertaking flood or stormwater control activities consistent with the comprehensive flood control management plan shall retain authority over such activities. [1991 c 322 § 4.]

***Reviser's note:** RCW 7.04.050 was repealed by 2005 c 433 § 50, effective January 1, 2006.

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

86.12.220 Advisory committees. A county may create one or more advisory committees to assist in the development of proposed comprehensive flood control management plans and to provide general advice on flood problems. The advisory committees may include city and town officials, officials of special districts subject to chapter 85.38 RCW, conservation districts, appropriate state and federal officials, and officials of other counties and other interested persons. [1991 c 322 § 5.]

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

Chapter 86.13 RCW

FLOOD CONTROL BY COUNTIES JOINTLY

Sections

JOINT COUNTY CONTROL—1913 ACT

86.13.010	Boundary line rivers—Contract to control.
86.13.020	Expenditure of funds—Joint action generally.
86.13.030	Tax levy in each county—Intercounty river improvement fund.
86.13.040	Eminent domain—Procedure—Acquisition by purchase authorized.
86.13.050	Joint county meeting—Procedure.
86.13.060	Special commissioner—Powers and duties—Compensation.
86.13.070	Chapter not exclusive.
86.13.080	Liability as between counties.
86.13.090	Issuance of warrants.

JOINT COUNTY CONTROL—SUPPLEMENTAL ACTS

86.13.100	Lease or disposal of property—Disposition of proceeds.
86.13.110	State's title to abandoned channels granted to counties.

IMMUNITY FROM LIABILITY

86.13.120	Liability of county or counties to others.
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JOINT COUNTY CONTROL—1913 ACT

86.13.010 Boundary line rivers—Contract to control.

Wherever and whenever a river is or shall be the boundary line or part of the boundary line between two counties, or it, or its tributaries or outlet or part thereof, flows through parts of two counties, and the waters thereof have in the past been the cause of damage, by inundation or otherwise, to the roads, bridges or other public property situate in or to other public interests of both such counties, or the flow of such waters shall have alternated between the said counties so at one time or times such waters shall have caused damage to one county and at another time or times to the other county, and it shall be deemed by the boards of county commissioners of both counties to be for the public interests of their respective counties that the flow of such waters be definitely confined to a particular channel, situate in whole or in part in either county, in a manner calculated to prevent such alternation or to prevent or lessen damage in the future, it shall be lawful for the two counties, and their boards of county commissioners are hereby empowered, pursuant to resolution, to enter into a contract in writing in the names of the respective counties for the purpose of settling all disputes in relation to any such situation, and providing ways and means for the control and disposition of such waters. Any such contract may provide:

(1) That it shall be operative in perpetuity, or only for a term of years or other measure of time to be specified therein.

(2) The amount of money to be expended by each county during each year of the life of said contract, or such other method of determining the amount of expenditure or dividing the financial burden as may be agreed upon.

(3) That an annual tax shall be levied, at the same time and in the same manner as other county taxes are levied, each year during the life of the contract, by the county commissioners of each county. The annual tax herein provided for need not be levied at the same rate for each county, but shall be at such rate in each county as will produce annually the amount of money for each county as is required for the fulfillment of the contract on its part: PROVIDED, HOWEVER, That in no event shall any such tax levy by either county

exceed twenty-five cents per thousand dollars of assessed value for any one year.

(4) That the general scheme for the improvement of such river shall be as stated in such contract, but by consent of the contracting parties, pursuant to resolution of each board of county commissioners, such scheme may be modified from time to time during the life of the contract. The contract may but need not provide the details of such scheme, but must designate the general purpose to be accomplished. So far as details are not specified in the contract, same shall be for future determination by joint action of the two boards of county commissioners. Any such contract may be subsequently modified or abrogated by mutual consent evidenced by separate resolution of both boards of county commissioners. [1973 1st ex.s. c 195 § 130; 1913 c 54 § 1; RRS § 9651. Formerly RCW 86.12.040.]

Additional notes found at www.leg.wa.gov

86.13.020 Expenditure of funds—Joint action generally.

When such a contract shall have been entered into the prosecution of the work of improvement and the expenditure of funds thereof shall be determined upon, controlled and provided for by joint action of the boards of county commissioners of the two counties. So acting jointly, they shall have power to employ subordinates, purchase material or equipment in open market or by contract, let contracts for work, or cause work to be done by day labor, and to reject any and all bids received for work or material. All vouchers, pay rolls, reports, contracts and bonds on contracts shall be in duplicate, one copy to be filed in the office of the county auditor of each county: PROVIDED, HOWEVER, That the expenditure of said funds must be made in such manner so that the fund from each county is drawn on or expended alternately and such alternate expenditure shall be in proportion to the amount contributed by each county as nearly as may be practicable. [1913 c 54 § 2; RRS § 9652. Formerly RCW 86.12.050 and 86.12.060, part.]

86.13.030 Tax levy in each county—Intercounty river improvement fund.

When such a contract shall have been entered into it shall be the duty of each of the boards of county commissioners to make for their respective counties, each year, a tax levy at a rate sufficient to meet the requirements of the contract to be performed by the county, or sufficient to provide such lesser amount as the boards of county commissioners shall agree upon for such year, to be evidenced by separate resolution of each board, and when such levy shall be made the same shall be extended upon the tax rolls of the county levying the same as other taxes shall be extended, and shall be collected in the same manner and shall be a lien upon the property as in the case of other taxes. The fund realized in each county by such tax levy shall go into a separate fund in the treasury of the county collecting the same, to be designated intercounty river improvement fund, and the entire fund so collected in the two counties shall be devoted to and be disbursed for the purposes specified in such contract and as in this chapter provided, and for no other purpose, but without regard to the particular county in which the work is performed, material required or expenditure made, it being the intent that the entire fund realized in the two counties shall be devoted to the one common purpose as if the two

counties were one county and the two funds one fund. The fund in each county shall be disbursed by the county treasurer of such county upon warrants signed by the county auditor of that county. Such warrants shall be issued by order of the board of county commissioners of such county, or a majority thereof. Each county auditor shall, whenever requested by the county auditor of the other county, furnish the county auditor of the other county a statement of payments into and warrants drawn upon the fund of his or her county from time to time, and in addition thereto, each county auditor shall on the first Monday of January, April, July and October each year during the life of the contract furnish the other a complete statement thereof. Obligations incurred in the prosecution of such improvement and warrants issued shall be payable only out of said special funds, and no general obligation against or debt of either county shall be created thereby or by any contract entered into by virtue of this chapter, but it is not the intent of this chapter to deny to either county the right to have in the courts any proper proceeding to compel compliance with such contract on the part of the other county. [2013 c 23 § 471; 1913 c 54 § 3; RRS § 9653. Formerly RCW 86.12.100.]

Limitation on levies: State Constitution Art. 7 § 2 (Amendments 55 and 59); chapter 84.52 RCW.

86.13.040 Eminent domain—Procedure—Acquisition by purchase authorized. When such a contract shall have been entered into the power of eminent domain is hereby vested in each of such counties, to acquire any lands necessary to straighten, widen, deepen, dike or otherwise improve any such river, its tributaries or outlet or to strengthen the banks thereof, or to acquire any land adjacent to such river, or its tributaries, or the right to cut and remove timber upon the same for the purpose of preventing or lessening the falling of timber or brush into the waters of such river or tributaries, or to acquire any rock quarry, gravel deposit or timber for material for the prosecution of such improvement, together with the necessary rights-of-way for the same, or to acquire any dam site or other property necessary for flood control purposes. Any such land, property or rights may be acquired by purchase instead of by condemnation proceedings. Said right of eminent domain shall extend to lands or other property owned by the state or any municipality thereof. The title to any such lands, property or rights so acquired shall vest in the county in which situate for the benefit of such enterprise and said fund, but when said contract shall have terminated by lapse of time or for any other reason, then such title shall be held by such county independent of any claims whatsoever of the other county, but any material, equipment or other chattel property on hand shall be converted into money and the money divided between the two counties in the ratio of their respective contributions to the fund. The exercise of such rights of eminent domain or purchase shall rest in the joint control of the two boards of county commissioners. Such eminent domain proceedings shall be in the name of and had in the county where the property to be acquired is situate: PROVIDED, If either county shall fail or refuse to institute and prosecute any condemnation proceedings when directed so to do by any legal meeting provided for in RCW 86.13.050, such proceeding may be instituted and prosecuted by and in the name of the other

county. The proceedings may conform to the provisions of *sections 921 to 926, inclusive, of Remington & Ballinger's Annotated Codes and Statutes of Washington, or to any general law now or hereafter enacted governing eminent domain proceedings by counties. The awards in and costs of such proceedings shall be payable out of such funds. The purposes in this act specified are hereby declared to be county purposes of each and both of such counties. [1937 c 117 § 1; 1913 c 54 § 4; RRS § 9654. Formerly RCW 86.12.060, part, and 86.12.070.]

*Reviser's note: "Sections 921 to 926, inclusive, of Remington & Ballinger's Annotated Codes and Statutes" (except for section 923) are codified as RCW 8.20.010 through 8.20.080. Section 923 was repealed by 1935 c 115 § 1 but compare the first paragraph of RCW 8.28.010 relating to the same subject matter as the repealed section.

86.13.050 Joint county meeting—Procedure. When such a contract shall have been entered into and occasion shall arise for the joint action of the two boards of county commissioners whether such joint action is provided for in this chapter or otherwise desired upon any matter having relation to such contract or the prosecution of such improvement, such joint action may be secured by a notice calling a joint meeting signed by two county commissioners, designating the time and place in either county of such meeting, served by one of the two county auditors upon the remaining county commissioners at least seven days (exclusive of the date of service or mailing) prior to the time so designated. If the notice is signed by two county commissioners of the same county the place of meeting shall be at some place in the other county designated in the notice. Such service may be personal or by mail addressed to the member in care of the county auditor of his or her county. The six county commissioners may constitute a legal meeting without notice by being present together for that purpose. The auditor's certificate of such personal service or mailing, attached to a copy of the notice, shall be made a part of the records of the meeting and be competent proof of the fact. Except in the case hereinafter provided for, the presence of four of the county commissioners shall be necessary to constitute a legal meeting. Each meeting shall be presided over by one of those present selected by vote. The county auditor of the county wherein the meeting is held shall be secretary of the meeting, and shall make duplicate record of its proceedings, one of which, with his or her certificate thereon, shall be forwarded to the county auditor of the other county, and such record shall be a part of the record of the board of county commissioners of each county. A majority vote of those present at any legal meeting shall be determinative upon any question properly considered at the meeting, and shall be binding upon each county as if enacted or adopted by its own board of county commissioners separately, but no joint meeting whatsoever shall in any manner continue, extend, change, alter, modify, or abrogate the contract when made or any of the terms and conditions contained therein. Each county commissioner shall be paid out of said fund in his or her own county all disbursements made by him or her for traveling and other expenses incurred in attending any joint meeting or in any way connected with the prosecution of the improvement. Any legal meeting shall have power to adjourn to another time and place. An adjourned meeting shall have all the powers of the meeting of

which it is an adjournment, but shall have no power after the end of the thirtieth day following the date of the original meeting of which it is an adjournment. If the three county commissioners of either county shall fail to attend any two meetings consecutively called, the notice for the next succeeding meeting may be also served upon the special commissioner hereinafter provided for, and if he or she and three county commissioners attend pursuant to such notice the four shall constitute a legal meeting, but if he or she does not attend and three county commissioners do attend, the same shall constitute a legal meeting: PROVIDED, All notices calling a joint meeting shall specify distinctly and separately each question to be considered at said meeting; and it shall be unlawful to consider any question at such meeting or at any adjourned meeting thereof except those which have been distinctly and separately specified, except in cases where all six county commissioners are present or five county commissioners present are unanimous on the question, and in any action which may be taken on any question other than those specified in the notice shall be void and shall not be binding on either county, except in cases where all six county commissioners are present or the action was by unanimous vote of five county commissioners present at such meeting. [2013 c 23 § 472; 1913 c 54 § 5; RRS § 9655. Formerly RCW 86.12.060, part, and 86.12.120 through 86.12.140.]

86.13.060 Special commissioner—Powers and duties—Compensation. When such a contract shall have been entered into there shall be designated at the first legal joint meeting, or adjournment thereof, held in each calendar year a special commissioner to serve as such until the first joint meeting held in the ensuing year. If such designation shall not be made at any such first annual meeting, the United States engineer in charge of the district in which such improvement is located shall be such special commissioner until the next succeeding first annual meeting. If a special commissioner shall for any reason fail to serve as such officer, or be removed by unanimous vote of any legal meeting, a successor to him or her may be chosen at any subsequent legal joint meeting during his or her term. Such special commissioner shall have power to attend and vote at any joint meeting in the following cases and none other, to wit: (1) In cases specially so provided in RCW 86.13.050 hereof; (2) in any case where the vote of any such joint meeting shall stand equally divided upon any question arising under this chapter or such contract or in the prosecution of the work of improvement. The special commissioner shall have no voice or vote except upon questions on which the vote of the county commissioners is equally divided. The procedure in cases covered by the foregoing subdivision (2) of this section shall be substantially as follows: It shall be the duty of the secretary of the meeting at which the division shall occur, if the attendance of the special commissioner at that meeting is not secured, to forthwith transmit to the special commissioner written notice of the fact of disagreement and the question involved, and of the time and place to which the meeting shall have been adjourned or at which the question will recur. If there shall be no such adjournment of the meeting, or if the secretary shall not give such notice, any two commissioners may in the manner provided in RCW 86.13.050 call a joint meeting for the consideration of the question in dispute, and in such event

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either county auditor may give such notice to the special commissioner. No informality in the mode of securing the attendance of the special commissioner shall invalidate the proceedings of or any vote taken at any meeting which he or she shall attend and which he or she is empowered to attend by the provisions of this chapter. The special commissioner shall receive, to be paid equally out of the two funds, his or her traveling and other expenses incurred in attending meetings or otherwise in connection with the work of improvement, and such compensation for his or her services as shall be fixed by the joint meeting which shall have selected him or her, or failing to be so fixed, his or her compensation shall be ten dollars per day of actual service. [2013 c 23 § 473; 1913 c 54 § 6; RRS § 9656. Formerly RCW 86.12.150 and 86.12.160.]

86.13.070 Chapter not exclusive. Nothing in this chapter contained shall be construed to prevent any county which may be a party to such contract from further caring for any such river or the banks thereof, as authorized so to do by existing laws or by such laws as may be hereafter enacted, provided the rights of neither county, as fixed by contract, shall be impaired thereby. [1913 c 54 § 7; RRS § 9657. Formerly RCW 86.12.190.]

86.13.080 Liability as between counties. No legal claim of any kind or character whatsoever in favor of one county and against the other shall be based upon or created by the enactment hereof, except such as may arise when the contract herein provided for shall have been entered into. After such contract shall have been entered into, should any loss or damage be sustained by either county occasioned by the overflow of any such river, if caused by any act or omission to act of the other county, its officers or agents, or any other cause whatsoever, then such county so suffering or sustaining said loss shall not be entitled to recover therefor from the other county, nor shall any cause of action, legal or equitable be based thereon: PROVIDED, HOWEVER, That if either county shall suffer loss or damage because of the failure or refusal of the other county to perform any such contract on its part to be performed, the injured county shall have a cause of action against the defaulting county to recover the same, but the limit of recovery for any loss or damage suffered in any one year shall not exceed the sum of ten thousand dollars, and any such recovery shall be limited to such special fund, and in no event be recoverable out of the general fund of such defaulting county. If any such loss or damage shall be liquidated in an amount by agreement or by judgment, the defaulting county shall increase its tax levy for said special fund for the ensuing year sufficiently to provide for such liquidated amount: AND PROVIDED FURTHER, That either county may have any proper action in the courts to compel the performance of the contract or any duty imposed thereby or by this chapter. [1913 c 54 § 8; RRS § 9658. Formerly RCW 86.12.170.]

86.13.090 Issuance of warrants. When such a contract shall have been entered into, it shall be lawful to issue warrants upon said fund though there be at the time of such issuance no money in the fund, but in such cases the aggregate of such warrants so issued in any year shall not exceed one-half

the amount of the next annual tax levy required by such contract. Such warrants shall be stamped by the county treasurer when presented to him or her for payment, to bear interest at a certain rate thereafter until paid, such rate to be the then current rate as determined by the county auditor. [2013 c 23 § 474; 1913 c 54 § 9; RRS § 9659. Formerly RCW 86.12.110.]

JOINT COUNTY CONTROL—SUPPLEMENTAL ACTS

86.13.100 Lease or disposal of property—Disposition of proceeds. Whenever two counties of this state, acting under a contract made pursuant to RCW 86.13.010 through 86.13.090, shall make an improvement in connection with the course, channel, or flow of a river, shall acquire property by statute, purchase, gift, or otherwise, said counties, acting through their boards of county commissioners jointly shall have the power, and are hereby authorized to sell, transfer, trade, lease, or otherwise dispose of said property by public or private, negotiation or sale. The deeds to the property so granted, transferred, leased, or sold shall be executed by the chair of the meeting of the joint boards of county commissioners, and attested by the secretary of said joint meeting where the sale is authorized. The proceeds of the sale of said property shall be used by said counties for the carrying on, completion or maintenance of said improvement, as directed by the boards of county commissioners of said counties acting jointly. [2013 c 23 § 475; 1915 c 103 § 1; RRS § 9660. Formerly RCW 86.12.080.]

Additional notes found at www.leg.wa.gov

86.13.110 State's title to abandoned channels granted to counties. Whenever two counties of this state, acting under a contract made pursuant to RCW 86.13.010 through 86.13.090, shall make an improvement in connection with the course, channel or flow of a river, thereby causing it to abandon its existing channel, bed, bank or banks for the entire distance covered by said improvement, or for any part or portion thereof, or by said improvement shall prevent a river from resuming at a future time an ancient or abandoned channel or bed, or shall construct improvements intended so to do, all the right, title and interest of the state of Washington in and to said abandoned channel or channels, bed or beds, bank or banks, up to and including the line of ordinary high water, shall be and the same is hereby given, granted and conveyed jointly to the counties making such improvement. [1915 c 140 § 1; RRS § 9662. Formerly RCW 86.12.090.]

IMMUNITY FROM LIABILITY

86.13.120 Liability of county or counties to others. See RCW 86.12.037.

Chapter 86.15 RCW

FLOOD CONTROL ZONE DISTRICTS

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Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

86.15.001 Actions subject to review by boundary review board. The creation of a flood control zone district may be subject to potential review by a boundary review board under chapter 36.93 RCW. Extensions of service outside of the boundaries of a flood control zone district may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 65.]

86.15.010 Definitions. The definitions set forth in this section apply through this chapter.

- (1) "Board" means the county legislative authority.
- (2) "Flood control improvement" means any works, projects, or other facilities necessary for the control of flood waters within the county or any zone or zones.
- (3) "Flood waters" and "stormwaters" means any storm waste or surplus waters, including surface water, wherever located within the county or a zone or zones where such waters endanger public highways, streams and water courses, harbors, life, or property.
- (4) "Participating zones" means two or more zones found to benefit from a single flood control improvement or stormwater control improvement.
- (5) "Stormwater control improvement" means any works, projects, or other facilities necessary to control and treat stormwater within the county or any zone or zones.
- (6) "Supervisors" means the board of supervisors, or governing body, of a zone.

(7) "Zones" means flood control zone districts which are quasi municipal corporations of the state of Washington created by this chapter. [1983 c 315 § 11; 1961 c 153 § 1.]

Additional notes found at www.leg.wa.gov

86.15.020 Zones—Creation. The board may initiate, by affirmative vote of a majority of the board, the creation of a zone or additional zones within the county, and without reference to an existing zone or zones, for the purpose of undertaking, operating, or maintaining flood control projects or stormwater control projects or groups of projects that are of special benefit to specified areas of the county. Formation of a zone may also be initiated by a petition signed by twenty-five percent of the electors within a proposed zone based on the vote cast in the last county general election. If the formation of the zone is initiated by petition, the board shall incorporate the terms of the petition in a resolution within forty days after receiving the petition from the county auditor. Thereafter, the procedures for establishing a zone shall be the same whether initiated by motion of the board or by a petition of electors.

Petitions shall be in a form prescribed and approved by the county auditor and shall include the necessary legal descriptions and other information necessary for establishment of a zone by resolution. When the sponsors of a petition have acquired the necessary signatures, they shall present the petition to the county auditor who shall thereafter certify the sufficiency of the petition within forty-five days. If the petition is found to meet the requirements specified in this chapter, the auditor shall transmit the petition to the board for their action; if the petition fails to meet the requirements of this chapter, it shall be returned to the sponsors. [1983 c 315 § 12; 1961 c 153 § 2.]

Additional notes found at www.leg.wa.gov

86.15.023 Zones not to include area in other zones. A board may not establish a zone including an area located in another zone unless this area is removed from the other zone, or the other zone is dissolved, as part of the action creating the new zone. [1991 c 322 § 9.]

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

86.15.025 Districts incorporating watersheds authorized—Subzones authorized—Creation, procedure—Administration—Powers. (1) The board is authorized to establish a countywide flood control zone district incorporating the boundaries of any and all watersheds located within the county which are not specifically organized into flood control zone districts established pursuant to chapter 86.15 RCW. Upon establishment of a countywide flood control zone district as authorized by this section, the board is authorized and may divide any or all of the zone so created into separately designated subzones and such subzones shall then be operated and be legally established in the same manner as any flood control zone district established pursuant to chapter 86.15 RCW.

(2) Countywide flood control zone districts shall be established pursuant to the requirements of RCW 86.15.020, 86.15.030 and *86.15.040 as now law of [or] hereafter amended. Subzones established from countywide flood con-

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trol zone districts shall be established by resolution of the board and the provisions of RCW 86.15.020, 86.15.030 and shall not apply to the establishment of such subzone as authorized by this section.

(3) Such subzones shall be operated and administered in the same manner as any other flood control zone district in accordance with the provisions of chapter 86.15 RCW.

(4) Such subzones shall have authority to exercise any and all powers conferred by the provisions of RCW 86.15.080 as now law or hereafter amended.

(5) The board shall exercise the same power, authority, and responsibility over such subzones as it exercises over flood control zone districts in accordance with the provisions of chapter 86.15 RCW as now law or hereafter amended, and without limiting the generality of this subsection, the board may exercise over such subzones, the powers granted to it by RCW 86.15.160, 86.15.170, 86.15.176 and 86.15.178 as now law or hereafter amended. [1969 ex.s. c 195 § 1.]

*Reviser's note: RCW 86.15.040 was repealed by 1991 c 322 § 13.

86.15.030 Districts incorporating watersheds authorized—Formation, hearing and notice. Upon receipt of a petition asking that a zone be created, or upon motion of the board, the board shall adopt a resolution which shall describe the boundaries of such proposed zone; describe in general terms the flood control needs or requirements within the zone; set a date for public hearing upon the creation of such zone, which shall be not more than thirty days after the adoption of such resolution. Notice of such hearing and publication shall be had in the manner provided in RCW 36.32.120(7).

At the hearing scheduled upon the resolution, the board shall permit all interested parties to be heard. Thereafter, the board may reject the resolution or it may modify the boundaries of such zone and make such other corrections or additions to the resolutions as they deem necessary to the accomplishment of the purpose of this chapter: PROVIDED, That if the boundaries of such zone are enlarged, the board shall hold an additional hearing following publication and notice of such new boundaries: PROVIDED FURTHER, That the boundaries of any zone shall generally follow the boundaries of the watershed area affected: PROVIDED FURTHER, That the immediately preceding proviso shall in no way limit or be construed to prohibit the formation of a countywide flood control zone district authorized to be created by RCW 86.15.025.

Within ten days after final hearing on a resolution, the board shall issue its order. [1969 ex.s. c 195 § 2; 1961 c 153 § 3.]

86.15.035 Cooperative watershed management. In addition to the authority provided in this chapter, flood control zone districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including without limitation those under chapter 39.34 RCW, under chapter 39.106 RCW, and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management. [2011 c 258 § 16; 2003 c 327 § 19.]

Short title—Purpose—Intent—2011 c 258: See RCW 39.106.010.

[Title 86 RCW—page 25]

Finding—Intent—2003 c 327: See note following RCW 39.34.190.

86.15.050 Zones—Supervisors—Election of supervisors. (1) The board of county commissioners of each county shall be ex officio, by virtue of their office, supervisors of the zones created in each county. In any zone with more than two thousand residents, an election of supervisors other than the board of county commissioners may be held as provided in this section.

(2) When proposed by citizen petition or by resolution of the board of county commissioners, a ballot proposition authorizing election of the supervisors of a zone shall be submitted by ordinance to the voters residing in the zone at any general election, or at any special election which may be called for that purpose.

(3) The ballot proposition shall be submitted (a) if the board of county supervisors enacts an ordinance submitting the proposition after adopting a resolution proposing the election of supervisors of a zone; or (b) if a petition proposing the election of supervisors of a zone is submitted to the county auditor of the county in which the zone is located that is signed by registered voters within the zone, numbering at least fifteen percent of the votes cast in the last county general election by registered voters within the zone.

(4) Upon receipt of a citizen petition under subsection (3)(b) of this section, the county auditor shall determine whether the petition is signed by a sufficient number of registered voters, using the registration records and returns of the preceding general election, and, no later than forty-five days after receipt of the petition, shall attach to the petition the auditor's certificate stating whether or not sufficient signatures have been obtained. If the signatures are found by the auditor to be insufficient, the petition shall be returned to the person filing it.

(5) The ballot proposition authorizing election of supervisors of zones shall appear on the ballot of the next general election or at the next special election date specified under RCW 29A.04.330 occurring sixty or more days after the last resolution proposing election of supervisors or the date the county auditor certifies that the petition proposing such election contains sufficient valid signatures.

(6) The petition proposing the election of zone supervisors, or the ordinance submitting the question to the voters, shall describe the proposed election process. The ballot proposition shall include the following:

"For the direct election of flood control zone district supervisors."

"Against the direct election of flood control zone district supervisors."

(7) The ordinance or petition submitting the ballot proposition shall designate the proposed composition of the supervisors of zones, which shall be clearly described in the ballot proposition. The ballot proposition shall state that the zone supervisors shall thereafter be selected by election, and, at the same election at which the proposition is submitted to the voters as to whether to elect zone supervisors, three zone supervisors shall be elected. The election of zone supervisors is null and void if the voters, by a simple majority, do not approve the direct election of the zone supervisors. Candidates shall run for specific supervisor positions. No primary

may be held to nominate candidates. The person receiving the greatest number of votes for each position shall be elected as a supervisor. The staggering of the terms of office shall occur as follows: (a) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (b) the person who is elected receiving the second greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (c) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial supervisors shall take office immediately when they are elected and qualified, and for purposes of computing their terms of office the terms shall be assumed to commence on the first day of January in the year after they are elected. Thereafter, all supervisors shall be elected to six-year terms of office. All supervisors shall serve until their respective successors are elected and qualified and assume office in accordance with RCW 29A.60.280. Vacancies may occur and shall be filled as provided in chapter 42.12 RCW.

(8) The costs and expenses directly related to the election of zone supervisors shall be borne by the zone. [2015 c 53 § 102; 2003 c 304 § 1; 1961 c 153 § 5.]

86.15.055 Elected supervisors—Compensation. (1) In a zone with supervisors elected pursuant to RCW 86.15.050, the supervisors may, as adjusted in accordance with subsection (4) of this section, each receive up to one hundred fourteen dollars per day or portion of a day spent in actual attendance at official meetings of the governing body or in performance of other official services or duties on behalf of the zone. The compensation for supervisors in office on January 1, 2015, is fixed at one hundred fourteen dollars per day. The board of county commissioners shall fix any such compensation to be paid to the initial supervisors during their initial terms of office. The supervisors shall fix the compensation to be paid to the supervisors thereafter. Compensation for the supervisors shall not exceed ten thousand nine hundred forty-four dollars in one calendar year.

(2) A supervisor is entitled to reimbursement for reasonable expenses actually incurred in connection with performance of the duties of a supervisor, including subsistence and lodging, while away from the supervisor's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

(3) Any supervisor may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the supervisors as provided in this section. The waiver, to be effective, must be filed any time after the member's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(4) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2018, based upon changes in the consumer price index during that time period.

"Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state and including all items, must be used for the adjustments of inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. [2015 c 165 § 1; 2005 c 127 § 2.]

Additional notes found at www.leg.wa.gov

86.15.060 Administration. (1) Except as provided in subsection (2) of this section, administration of the affairs of zones shall be in the county engineer. The engineer may appoint such deputies and engage such employees, specialists, and technicians as may be required by the zone and as are authorized by the zone's budget. Subject to the approval of the supervisors, the engineer may organize, or reorganize as required, the zone into such departments, divisions, or other administrative relationships as he or she deems necessary to its efficient operation.

(2) In a zone with supervisors elected pursuant to RCW 86.15.050, the supervisors may provide for administration of the affairs of the zone by other than the county engineer, pursuant to the authority established in RCW 86.15.095 to hire employees, staff, and services and to enter into contracts. [2013 c 23 § 476; 2005 c 127 § 1; 1961 c 153 § 6.]

Additional notes found at www.leg.wa.gov

86.15.070 Advisory committees. The board may appoint a countywide advisory committee, which shall consist of not more than fifteen members. The board also may appoint an advisory committee for any zone or combination of two or more zones which committees shall consist of not more than five members. Members of an advisory committee shall serve without pay and shall serve at the pleasure of the board. [1967 ex.s. c 136 § 6; 1961 c 153 § 7.]

86.15.080 General powers. A zone or participating zone may:

(1) Exercise all the powers and immunities vested in a county for flood water or stormwater control purposes under the provisions of chapters 86.12, 86.13, 36.89, and 36.94 RCW: PROVIDED, That in exercising such powers, all actions shall be taken in the name of the zone and title to all property or property rights shall vest in the zone;

(2) Plan, construct, acquire, repair, maintain, and operate all necessary equipment, facilities, improvements, and works to control, conserve, and remove flood waters and stormwaters and to otherwise carry out the purposes of this chapter including, but not limited to, protection of the quality of water sources;

(3) Take action necessary to protect life and property within the district from flood water damage, including in the context of an emergency, as defined in RCW 38.52.010, using covered volunteer emergency workers, as defined in

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RCW 38.52.010 and 38.52.180(5)(a), subject to and in accordance with the terms of RCW 38.52.180;

(4) Control, conserve, retain, reclaim, and remove flood waters and stormwaters, including waters of lakes and ponds within the district, and dispose of the same for beneficial or useful purposes under such terms and conditions as the board may deem appropriate, subject to the acquisition by the board of appropriate water rights in accordance with the statutes;

(5) Acquire necessary property, property rights, facilities, and equipment necessary to the purposes of the zone by purchase, gift, or condemnation: PROVIDED, That property of municipal corporations may not be acquired without the consent of such municipal corporation;

(6) Sue and be sued in the name of the zone;

(7) Acquire or reclaim lands when incidental to the purposes of the zone and dispose of such lands as are surplus to the needs of the zone in the manner provided for the disposal of county property in chapter 36.34 RCW;

(8) Cooperate with or join with the state of Washington, United States, another state, any agency, corporation or political subdivision of the United States or any state, Canada, or any private corporation or individual for the purposes of this chapter;

(9) Accept funds or property by loan, grant, gift or otherwise from the United States, the state of Washington, or any other public or private source;

(10) Remove debris, logs, or other material which may impede the orderly flow of waters in streams or water courses: PROVIDED, That such material shall become property of the zone and may be sold for the purpose of recovering the cost of removal: PROVIDED FURTHER, That valuable material or minerals removed from public lands shall remain the property of the state;

(11) Provide grant funds to political subdivisions of the state that are located within the boundaries of the zone, so long as the use of the grant funds is within the purposes authorized under this chapter. [2010 c 46 § 2; 1983 c 315 § 13; 1961 c 153 § 8.]

Additional notes found at www.leg.wa.gov

86.15.090 Extraterritorial powers. A zone may, when necessary to protect life and property within its limits from flood water, exercise any of its powers specified in RCW 86.15.080 outside its territorial limits. [1961 c 153 § 9.]

86.15.095 Zones constitute quasi municipal corporation—Constitutional and statutory powers. A flood control zone district is a quasi municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A flood control zone district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued. [1983 c 315 § 6.]

Additional notes found at www.leg.wa.gov

86.15.100 Flood control or stormwater control improvements—Authorization. The supervisors may authorize the construction, extension, enlargement, or acquisition of necessary flood control or stormwater control improvements within the zone or any participating zones. The improvements may include, but shall not be limited to the extension, enlargement, construction, or acquisition of dikes and levees, drain and drainage systems, dams and reservoirs, or other flood control or stormwater control improvements; widening, straightening, or relocating of stream or water courses; and the acquisition, extension, enlargement, or construction of any works necessary for the protection of stream and water courses, channels, harbors, life, and property. [1983 c 315 § 14; 1961 c 153 § 10.]

Additional notes found at www.leg.wa.gov

86.15.110 Flood control or stormwater control improvements—Initiation—Comprehensive plan. Flood control or stormwater control improvements may be extended, enlarged, acquired, or constructed by a zone pursuant to a resolution adopted by the supervisors. The resolution shall specify:

- (1) Whether the improvement is to be extended, enlarged, acquired, or constructed;
- (2) That either:
 - (a) A comprehensive plan of development for flood control has been prepared for the stream or water course upon which the improvement will be enlarged, extended, acquired, or constructed, and that the improvement generally contributes to the objectives of the comprehensive plan of development: PROVIDED, That the plan shall be first submitted to the state department of ecology at least ninety days in advance of the beginning of any flood control project or improvement; and shall be subject to all the regulatory control provisions by the department of ecology as provided in chapter 86.16 RCW; or
 - (b) A comprehensive plan of development for stormwater control has been prepared for the area that will be served by the proposed stormwater control facilities;
- (3) If the improvement is to be constructed, that preliminary engineering studies and plans have been made, and that the plans and studies are on file with the county engineer;
- (4) The estimated cost of the acquisition or construction of the improvement, together with such supporting data as will reasonably show how the estimates were arrived at; and
- (5) That the improvement will benefit:
 - (a) Two or more zones, hereinafter referred to as participating zones; or
 - (b) A single zone; or
 - (c) The county as a whole, as well as a zone or participating zones. [1983 c 315 § 15; 1961 c 153 § 11.]

Additional notes found at www.leg.wa.gov

86.15.120 Flood control or stormwater control improvements—Hearing, notice. Before finally adopting a resolution to undertake any flood control improvement or stormwater control improvement, the supervisors shall hold a hearing thereon. Notice and publication of the hearing shall be given under RCW 36.32.120(7). The supervisors may conduct any such hearing concurrently with a hearing on the establishment of a flood control zone, and may in such case

designate the proposed zone a beneficiary of any improvement. [1983 c 315 § 16; 1961 c 153 § 12.]

Additional notes found at www.leg.wa.gov

86.15.130 Zone treasurer—Funds. The treasurer of each zone shall be the county treasurer. He or she shall establish within his or her office a zone flood control fund for each zone into which shall be deposited the proceeds of all tax levies, assessments, gifts, grants, loans, or other revenues which may become available to a zone.

The treasurer shall also establish the following accounts within the zone fund:

- (1) For each flood control improvement financed by a bond issue, an account to which shall be deposited the proceeds of any such bond issue; and
- (2) An account for each outstanding bond issue to which will be deposited any revenues collected for the retirement of such outstanding bonds or for the payment of interest or charges thereon; and
- (3) A general account to which all other receipts of the zone shall be deposited. [2013 c 23 § 477; 1961 c 153 § 13.]

86.15.140 Budget. The supervisors shall annually at the same time county budgets are prepared adopt a budget for the zone, which budget shall be divided into the following appropriation items: (1) Overhead and administration; (2) maintenance and operation; (3) construction and improvements; and (4) bond retirement and interest. In preparing the budget, the supervisors shall show the total amount to be expended in each appropriation item and the proportionate share of each appropriation item to be paid from each account of the zone.

In preparing the annual budget, the supervisors shall under the appropriation item of construction and improvement list each flood control improvement or stormwater control improvement and the estimated expenditure to be made for each during the ensuing year. The supervisors may at any time during the year, if additional funds become available to the zone, adopt a supplemental budget covering additional authorized improvements.

The zone budget or any supplemental budget shall be approved only after a public hearing, notice of which shall be given as provided by RCW 36.32.120(7). [1983 c 315 § 17; 1961 c 153 § 14.]

Additional notes found at www.leg.wa.gov

86.15.150 County aid. Whenever the supervisors have found under the provisions of RCW 86.15.110 that a flood control improvement or stormwater control improvement initiated by any zone will be of benefit to the county as a whole, as well as to the zone or participating zones; or whenever the supervisors have found that the maintenance and operation of any flood control improvement or stormwater control improvement within any zone will be of benefit to the overall flood control program or stormwater control program of the county, the board may authorize the transfer of any funds available to the county for flood control or stormwater control purposes to any zone or participating zones for flood control or stormwater control purposes. [1983 c 315 § 18; 1961 c 153 § 15.]

Additional notes found at www.leg.wa.gov

86.15.160 Excess levies, assessments, regular levies, and charges—Local improvement districts. For the purposes of this chapter the supervisors may authorize:

(1) An annual excess ad valorem tax levy within any zone or participating zones when authorized by the voters of the zone or participating zones under RCW 84.52.052 and 84.52.054;

(2) An assessment upon property, including state property, specially benefited by flood control improvements or stormwater control improvements imposed under chapter 86.09 RCW;

(3) Within any zone or participating zones an annual ad valorem property tax levy of not to exceed fifty cents per thousand dollars of assessed value when the levy will not take dollar rates that other taxing districts may lawfully claim and that will not cause the combined levies to exceed the constitutional and/or statutory limitations, and the additional levy, or any portion thereof, may also be made when dollar rates of other taxing units is released therefor by agreement with the other taxing units from their authorized levies;

(4) A charge, under RCW 36.89.080, for the furnishing of service to those who are receiving or will receive benefits from stormwater control facilities and who are contributing to an increase in surface water runoff. The rate or charge imposed under this section shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested;

(5) Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state and state property, shall be liable for the charges to the same extent a private person and privately owned property is liable for the charges, and in setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property;

(6) The creation of local improvement districts and utility local improvement districts, the issuance of improvement district bonds and warrants, and the imposition, collection, and enforcement of special assessments on all property, including any state-owned or other publicly-owned property, specially benefited from improvements in the same manner as provided for counties by chapter 36.94 RCW. [2003 c 394 § 8; 1986 c 278 § 60; 1983 c 315 § 19; 1973 1st ex.s. c 195 § 131; 1961 c 153 § 16.]

Rates and charges for stormwater control facilities—Limitations—Definitions: RCW 90.03.500 through 90.03.525. See also RCW 35.67.025, 35.92.021, 36.89.085, and 36.94.145.

Additional notes found at www.leg.wa.gov

86.15.162 Delinquent assessment—Sale of parcel—Accrual of interest. If the delinquent assessment remains unpaid on the date fixed for the sale under RCW 86.09.496 and 86.09.499, the parcel shall be sold in the same manner as provided under *RCW 87.03.310 through 87.03.330. If the district reconveys the land under *RCW 87.03.325 due to accident, inadvertence, or misfortune, however, interest shall accrue not at the rate provided in RCW 87.03.270, but at the rate provided in RCW 86.09.505. [1983 c 315 § 7.]

(2018 Ed.)

*Reviser's note: RCW 87.03.310 through 87.03.330 were repealed by 1988 c 134 § 15. Later enactment, see chapter 87.06 RCW.

Additional notes found at www.leg.wa.gov

86.15.165 Voluntary assessments for flood control or stormwater control improvements—Procedure—Disposition of proceeds—Use. The supervisors may provide by resolution for levying voluntary assessments, under a mode of annual installments extending over a period not exceeding fifteen years, on property benefited from a flood control improvement or stormwater control improvement. The voluntary assessment shall be imposed only after each owner of property benefited by the flood control improvement has agreed to the assessment by written agreement with the supervisors. The agreement shall be recorded with the county auditor and the obligations under the agreement shall be binding upon all heirs and all successors in interest of the property.

The voluntary assessments need not be uniform or directly related to benefits to the property from the flood control improvement or stormwater control improvement.

The levying, collection, and enforcement authorized in this section shall be in the manner now and hereafter provided by law for the levying, collection, and enforcement of local improvement assessments by cities and towns, insofar as those provisions are not inconsistent with the provisions of this chapter.

The disposition of all proceeds from voluntary assessments shall be in accordance with RCW 86.15.130.

The proceeds from voluntary assessments may be used for any flood control improvement or stormwater control improvement not inconsistent with the provisions of this chapter, and in addition the proceeds may be used for operation and maintenance of flood control improvements or stormwater control improvements constructed under the authority of this chapter. [1983 c 315 § 20; 1969 ex.s. c 195 § 3.]

Additional notes found at www.leg.wa.gov

86.15.170 General obligation bonds. The supervisors may authorize the issuance of general obligation bonds to finance any flood control improvement or stormwater control improvement and provide for the retirement of the bonds with ad valorem property tax levies. The general obligation bonds may be issued and the bond retirement levies imposed only when the voters of the flood control zone district approve a ballot proposition authorizing both the bond issuance and imposition of the excess bond retirement levies pursuant to Article VIII, section 6 and Article VII, section 2(b) of the state Constitution and RCW 84.52.056. Elections shall be held as provided in RCW 39.36.050. The bonds shall be issued on behalf of the zone or participating zones and be approved by the voters of the zone or participating zones when the improvement has by the resolution, provided in RCW 86.15.110, been found to be of benefit to a zone or participating zones. The bonds may not exceed an amount, together with any outstanding general obligation indebtedness, equal to three-fourths of one percent of the value of taxable property within the zone or participating zones, as the term "value of the taxable property" is defined in RCW 39.36.015. The bonds shall be issued and sold in accordance

with chapter 39.46 RCW. [1984 c 186 § 62. Prior: 1983 c 315 § 21; 1983 c 167 § 211; 1961 c 153 § 17.]

Purpose—1984 c 186: See note following RCW 39.46.110.
Additional notes found at www.leg.wa.gov

86.15.175 Community revitalization financing—Public improvements. In addition to other authority that a flood control zone district possesses, a flood control zone district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a flood control zone district to otherwise participate in the public improvements if that authority exists elsewhere. [2001 c 212 § 23.]

86.15.176 Service charges authorized—Disposition of revenue. The supervisors may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served or receiving benefits from a flood control improvement including public entities, except as otherwise provided in RCW 90.03.525. The service charge shall be uniform for the same class of benefits or service. In classifying services furnished or benefits received the board may in its discretion consider the character and use of land and its water runoff characteristics and any other matters that present a reasonable difference as a ground for distinction. Service charges shall be applicable to a zone or participating zones. The disposition of all revenue from service charges shall be in accordance with RCW 86.15.130. [1986 c 278 § 61; 1983 c 315 § 22; 1967 ex.s. c 136 § 7.]

Additional notes found at www.leg.wa.gov

86.15.178 Revenue bonds—Lien for delinquent service charges. (1) The supervisors may authorize the issuance of revenue bonds to finance any flood control improvement or stormwater control improvement. The bonds may be issued by the supervisors in the same manner as prescribed in RCW 36.67.510 through 36.67.570 pertaining to counties. The bonds shall be issued on behalf of the zone or participating zones when the improvement has by the resolution, provided in RCW 86.15.110, been found to be of benefit to a zone or participating zones. The bonds may be in any form, including bearer bonds or registered bonds.

Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating the fund.

Revenue bond principal, interest, and all other related necessary expenses shall be payable only out of the appropriate special fund.

A zone or participating zones shall have a lien for delinquent service charges, including interest thereon, against the premises benefited by a flood control improvement or stormwater control improvement, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The lien shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1991 c 322 § 10. Prior: 1983 c 315 § 23; 1983 c 167 § 212; 1967 ex.s. c 136 § 8.]

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

Additional notes found at www.leg.wa.gov

86.15.180 Protection of public property. Any agency or department of the state of Washington, or any political subdivision or municipal corporation of the state may contribute funds to the county or any zone or zones to assist the county, zone or zones in carrying out the purposes of this chapter when such agency, department, subdivision or municipal corporation finds such action will materially contribute to the protection of publicly owned property under its jurisdiction. [1961 c 153 § 18.]

86.15.190 Abatement of nuisances. The supervisors may order, on behalf of the zone or participating zones, that an action be brought in the superior court of the county to require the removal of publicly or privately owned structures, improvements, facilities, or accumulations of debris or materials that materially contribute to the dangers of loss of life or property from flood waters. Where the structures, improvements, facilities, or accumulations of debris or materials are found to endanger the public health or safety the court shall declare them a public nuisance, and forthwith order their abatement. If the abatement is not completed within the time ordered by the court, the county may abate the nuisance and charge the cost of the action against the land upon which the nuisance is located, and the payment of the charge may be enforced and collected in the same manner at the same time as county property taxes. [1983 c 315 § 24; 1961 c 153 § 19.]

Additional notes found at www.leg.wa.gov

86.15.200 Flood control zones—Consolidation, abolishment. The board may consolidate any two or more zones or abolish any zone pursuant to a resolution adopted by the board providing for such action. Before adopting such a resolution, the board shall conduct a public hearing notice of which shall be given as provided by RCW 36.32.120(7). Any indebtedness of any zone or zones which are abolished or consolidated shall not be impaired by their abolishment or consolidation, and the board shall continue to levy and collect all necessary taxes and assessments until such debts are retired. Whenever twenty-five percent of the electors of any zone file a petition, meeting the requirements of sufficiency set forth in RCW 86.15.020, asking that a zone be abolished, the board shall: (1) Adopt a resolution abolishing the zone or (2) at the next general election place a proposition on the ballot calling for a yes or no vote on the abolition of the zone. [1961 c 153 § 20.]

86.15.210 Transfer of property. A diking, drainage, or sewerage improvement district, flood control district, diking district, drainage district, intercounty diking and drainage district, or zone may convey title to any property improvements or assets of the districts or zone to the county or a zone for flood control purposes. If the property improvements or assets are surplus to the needs of the district or zone the trans-

fer may be made by private negotiations, but in all other cases the transfers are subject to the approval of a majority of the registered voters within the district or zone. Nothing in this section permits any district or zone to impair the obligations of any debt or contract of the district or zone. [1983 c 315 § 25; 1961 c 153 § 21.]

Additional notes found at www.leg.wa.gov

86.15.220 Planning of improvements. Nothing in this chapter shall be construed as limiting the right of counties under the provisions of chapters 86.12 and 86.13 RCW to undertake the planning or engineering studies necessary for flood control improvements or financing the same from any funds available for such purposes. [1961 c 153 § 22.]

86.15.230 Public necessity of chapter. This chapter is hereby declared to be necessary for the public health, safety, and welfare and that the taxes and special assessments authorized hereby are found to be for a public purpose. [1961 c 153 § 23.]

86.15.900 Severability—Construction—1961 c 153. If any provision of this chapter, as now or hereafter amended, or its application to any person or circumstance is held invalid, the remainder of the chapter, and its application to other persons or circumstances shall not be affected. [1961 c 153 § 24.]

86.15.910 Construction of chapter. This chapter shall be complete authority for the accomplishment of purposes hereby authorized, and shall be liberally construed to accomplish its purposes. Any restrictions, limitations or regulations contained shall not apply to this chapter. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only. [1961 c 153 § 25.]

86.15.920 Titles not part of the chapter. The section titles shall not be considered a part of this chapter. [1961 c 153 § 26.]

Chapter 86.16 RCW

FLOODPLAIN MANAGEMENT

Sections

86.16.010	Statement of policy—State control assumed.
86.16.020	Floodplain management regulation.
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86.16.051	Basis for state and local floodplain management.
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86.16.190	Livestock flood sanctuary areas.

(2018 Ed.)

86.16.900 Chapter liberally construed.

86.16.010 Statement of policy—State control assumed. The legislature finds that the alleviation of recurring flood damages to public and private property and to the public health and safety is a matter of public concern. As an aid in effecting such alleviation the state of Washington, in the exercise of its sovereign and police powers, hereby assumes full regulatory control over the navigable and non-navigable waters flowing or lying within the borders of the state subject always to the federal control of navigation, to the extent necessary to accomplish the objects of this chapter. In addition, in an effort to alleviate flood damage and expenditures of government funds, the federal government adopted the national flood insurance act of 1968 and subsequently the flood disaster protection act of 1973. The department of ecology is the state agency in Washington responsible for coordinating the floodplain management regulation elements aspects of the national flood insurance program. [1987 c 523 § 1; 1935 c 159 § 1; RRS § 9663A-1.]

86.16.020 Floodplain management regulation. State-wide floodplain management regulation shall be exercised through: (1) Local governments' administration of the national flood insurance program regulation requirements, (2) the establishment of minimum state requirements for floodplain management that equal the minimum federal requirements for the national flood insurance program, and (3) the issuance of regulatory orders. This regulation shall be exercised over the planning, construction, operation and maintenance of any works, structures and improvements, private or public, which might, if improperly planned, constructed, operated and maintained, adversely influence the regimen of a stream or body of water or might adversely affect the security of life, health and property against damage by flood water. [1989 c 64 § 1; 1987 c 523 § 2; 1935 c 159 § 3; RRS § 9663A-3. FORMER PART OF SECTION: 1939 c 85 § 1 now codified as RCW 86.16.025 and 86.16.027.]

86.16.025 Authority of department. Subject to RCW 43.21A.068, with respect to such features as may affect flood conditions, the department shall have authority to examine, approve or reject designs and plans for any structure or works, public or private, to be erected or built or to be reconstructed or modified upon the banks or in or over the channel or over and across the floodway of any stream or body of water in this state. [1995 c 8 § 4; 1989 c 64 § 2; 1987 c 109 § 50; 1939 c 85 § 1; 1935 c 159 § 6; RRS § 9663A-6. Formerly RCW 86.16.020, part.]

Findings—1995 c 8: See note following RCW 43.21A.064.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

86.16.031 Duties of the department of ecology. The department of ecology shall:

- (1) Review and approve county, city, or town floodplain management ordinances pursuant to RCW 86.16.041;
- (2) When requested, provide guidance and assistance to local governments in development and amendment of their floodplain management ordinances;

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(3) Provide technical assistance to local governments in the administration of their floodplain management ordinances;

(4) Provide local governments and the general public with information related to the national flood insurance program;

(5) When requested, provide assistance to local governments in enforcement actions against any individual or individuals performing activities within the floodplain that are not in compliance with local, state, or federal floodplain management requirements;

(6) Establish minimum state requirements that equal minimum federal requirements for the national flood insurance program;

(7) Assist counties, cities, and towns in identifying the location of the one hundred year floodplain, and petitioning the federal government to alter its designations of where the one hundred year floodplain is located if the federally recognized location of the one hundred year floodplain is found to be inaccurate; and

(8) Establish minimum state requirements for specific floodplains that exceed the minimum federal requirements for the national flood insurance program, but only if: (a) The location of the one hundred year floodplain has been reexamined and is certified by the department as being accurate; (b) negotiations have been held with the affected county, city, or town over these regulations; (c) public input from the affected community has been obtained; and (d) the department makes a finding that these increased requirements are necessary due to local circumstances and general public safety. [1989 c 64 § 3; 1987 c 523 § 3.]

86.16.035 Department of ecology—Control of dams and obstructions. Subject to RCW 43.21A.068, the department of ecology shall have supervision and control over all dams and obstructions in streams, and may make reasonable regulations with respect thereto concerning the flow of water which he or she deems necessary for the protection to life and property below such works from flood waters. [2013 c 23 § 478; 1995 c 8 § 5. Prior: 1987 c 523 § 9; 1987 c 109 § 53; 1935 c 159 § 8; RRS § 9663A-8. Formerly RCW 86.16.030, part.]

Findings—1995 c 8: See note following RCW 43.21A.064.

Purpose—Short title—Construction—Rules—Severability—Capitons—1987 c 109: See notes following RCW 43.21B.001.

86.16.041 Floodplain management ordinances and amendments—Filing with the department of ecology—Disapproval by the department—Adoption of rules for repair or replacement of existing residential structures.

(1) Beginning July 26, 1987, every county and incorporated city and town shall submit to the department of ecology any new floodplain management ordinance or amendment to any existing floodplain management ordinance. Such ordinance or amendment shall take effect thirty days from filing with the department unless the department disapproves such ordinance or amendment within that time period.

(2) The department may disapprove any ordinance or amendment submitted to it under subsection (1) of this section if it finds that an ordinance or amendment does not comply with any of the following:

(a) Restriction of land uses within designated floodways including the prohibition of construction or reconstruction, repair, or replacement of residential structures, except for: (i) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure the cost of which does not exceed fifty percent of the market value of the structure either, (A) before the repair, reconstruction, or repair is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code or building enforcement official and which are the minimum necessary to ensure safe living conditions shall not be included in the fifty percent determination. However, the floodway prohibition in this subsection does not apply to existing farmhouses in designated floodways that meet the provisions of subsection (3) of this section, or to substantially damaged residential structures other than farmhouses that meet the depth and velocity and erosion analysis in subsection (4) of this section, or to structures identified as historic places;

(b) The minimum requirements of the national flood insurance program; and

(c) The minimum state requirements adopted pursuant to RCW 86.16.031(8) that are applicable to the particular county, city, or town.

(3) Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and which are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 shall be permitted subject to the following:

(a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;

(b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;

(c) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;

(d) A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;

(e) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;

(f) For substantial improvements, and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the base flood elevation;

(g) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;

(h) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and

(i) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

(4) For all substantially damaged residential structures other than farmhouses that are located in a designated floodway, the department, at the request of the town, city, or county with land use authority over the structure, is authorized to assess the risk of harm to life and property posed by the specific conditions of the floodway, and, based upon scientific analysis of depth, velocity, and flood-related erosion, may exercise best professional judgment in recommending to the permitting authority, repair, replacement, or relocation of such damaged structures. The effect of the department's recommendation, with the town, city, or county's concurrence, to allow repair or replacement of a substantially damaged residential structure within the designated floodway is a waiver of the floodway prohibition.

(5) The department shall develop a rule or rule amendment guiding the assessment procedures and criteria described in subsections (3) and (4) of this section no later than December 31, 2000.

(6) For the purposes of this section, "farmhouse" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner. [2000 c 222 § 1; 1999 c 9 § 1; 1989 c 64 § 4; 1987 c 523 § 4.]

Additional notes found at www.leg.wa.gov

86.16.045 Adoption of ordinances or requirements that exceed minimum federal requirements. A county, city, or town may adopt floodplain management ordinances or requirements that exceed the minimum federal requirements of the national flood insurance program without following the procedures provided in RCW 86.16.031(8). [1989 c 64 § 6.]

86.16.051 Basis for state and local floodplain management. The basis for state and local floodplain management regulation shall be the areas designated as special flood hazard areas on the most recent maps provided by the federal emergency management agency for the national flood insurance program. Best available information shall be used if these maps are not available or sufficient. [1987 c 523 § 5.]

86.16.061 Adoption of rules. The department of ecology after consultation with the public shall adopt such rules as are necessary to implement this chapter. [1989 c 64 § 5; 1987 c 523 § 6.]

86.16.071 Chapter not to create liability for damages against the state. The exercise by the state of the authority, duties, and responsibilities as provided in this chapter shall not imply or create any liability for any damages against the state. [1987 c 523 § 7.]

86.16.081 Enforcement of chapter—Civil penalty—Review by pollution control hearings board or local legislative authority. (1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, the attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter.

(2) Any person who fails to comply with this chapter shall also be subject to a civil penalty not to exceed one thou-

sand dollars for each violation. Each violation or each day of noncompliance shall constitute a separate violation.

(3) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(4) Any penalty imposed pursuant to this section by the department shall be subject to review by the pollution control hearings board. Any penalty imposed pursuant to this section by local government shall be subject to review by the local government legislative authority. Any penalty jointly imposed by the department and local government shall be appealed to the pollution control hearings board. [1995 c 403 § 634; 1987 c 523 § 8.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

86.16.110 Appeals. Any person, association, or corporation, public, municipal, or private, feeling aggrieved at any order, decision, or determination of the department or director pursuant to this chapter, affecting his or her interest, may have the same reviewed pursuant to RCW 43.21B.310. [1991 c 322 § 11. Prior: (Repealed by 1987 c 523 § 12); 1987 c 109 § 23; 1935 c 159 § 17; RRS § 9663A-17.]

Reviser's note: This section was repealed by 1987 c 523 § 12 without cognizance of its amendment by 1987 c 109 § 23, and was subsequently reenacted by 1991 c 322 § 11.

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

86.16.120 Flood damages defined. Damages within the meaning of this chapter shall include harmful inundation, water erosion of soil, stream banks and beds, stream channel shifting and changes, harmful deposition by water of eroded and shifting soils and debris upon property or in the beds of streams or other bodies of water, damages by high water to public roads, highways, bridges, utilities and to works built for protection against floods or inundation, the interruption by floods of travel, communication and commerce, and all other high water influences and results which injuriously affect the public health and the safety of property. [1935 c 159 § 2; RRS § 9663A-2.]

86.16.160 Local programs not prevented. Nothing in this chapter shall prevent any county, city or town from establishing, pursuant to any authority otherwise available to them, flood control regulation programs and related land use control measures in areas which are subject to flooding or flood damages. [1973 c 75 § 2.]

86.16.180 Processing of permits and authorizations for emergency water withdrawal and facilities to be expedited. All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized

under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. [1989 c 171 § 9; 1987 c 343 § 7.]

Additional notes found at www.leg.wa.gov

86.16.190 Livestock flood sanctuary areas. Local governments that have adopted floodplain management regulations pursuant to this chapter shall include provisions that allow for the establishment of livestock flood sanctuary areas at a convenient location within a farming unit that contains domestic livestock. Local governments may limit the size and configuration of the livestock flood sanctuary areas, but such limitation shall provide adequate space for the expected number of livestock on the farming unit and shall be at an adequate elevation to protect livestock. Modification to floodplain management regulations required pursuant to this section shall be within the minimum federal requirements necessary to maintain coverage under the national flood insurance program. [1991 c 322 § 17.]

Findings—Intent—1991 c 322: See note following RCW 86.12.200.

86.16.900 Chapter liberally construed. The provisions of this chapter and all proceedings thereunder shall be liberally construed with a view to effect their object. [1935 c 159 § 19; RRS § 9663A-19.]

Chapter 86.18 RCW

FLOOD CONTROL CONTRIBUTIONS

Sections

86.18.010	Declaration of purpose.
86.18.030	Conditions and limitations on expenditures and contributions from appropriations—Warrants.
86.18.900	Construction—1967 ex.s. c 136.

86.18.010 Declaration of purpose. Economic development and growth of the state is dependent on the control of flood waters. The legislature declares, in the exercise of its sovereign and police powers, that the purpose of this chapter is to provide for contributions of funds for assisting political subdivisions of the state in the protection of lands from inundation; the protection of public highways; the control of storm drainage; the maintenance of stream channels and water courses; and the protection of life and property.

It is the intent of the legislature that funds be provided to political subdivisions of the state to assist in the development of those flood control improvements and projects, which cannot be reasonably and practicably financed through the normal methods of financing available to such political subdivisions. [1967 ex.s. c 136 § 1.]

86.18.030 Conditions and limitations on expenditures and contributions from appropriations—Warrants. Funds shall be expended and contributions made to a political subdivision of the state from flood control appropriations only after:

(1) The project for which the funds are to be used has been approved by the department of ecology in accordance with the regulatory provisions of chapter 86.16 RCW.

(2) Engineering studies and plans have been made and filed with the county engineer of the county in which the project is located, or the county engineers of all counties in which the project is located, if it is located in more than one county.

(3) The estimate of cost of acquisition of necessary lands, rights-of-way and construction of the project or improvements, together with adequate supporting data have been completed and filed with the department of ecology.

(4) A comprehensive plan for the area involved has been completed and filed with the department.

(5) The political subdivision desiring a contribution has made an application for a contribution to the department showing the estimated cost of the project and the requested contribution.

(6) Federal funds are available for contribution for payment of a portion of the cost of the project.

The director of ecology is authorized to determine when these conditions have been met and to request the proper warrant for the state's contribution. Contributions to a political subdivision for a specific project shall not exceed fifty percent of the cost of acquisition of necessary lands and rights-of-way, and construction of the project or works of improvement. [1987 c 109 § 63; 1980 c 32 § 12; 1967 ex.s. c 136 § 3.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

86.18.900 Construction—1967 ex.s. c 136. This legislative proposal shall be complete authority for the accomplishment of purposes hereby authorized, and shall be liberally construed to accomplish its purposes. [1967 ex.s. c 136 § 4.]

Chapter 86.24 RCW

FLOOD CONTROL BY STATE IN COOPERATION WITH FEDERAL AGENCIES, ETC.

Sections

86.24.010	Declaration of policy.
86.24.020	Cooperation authorized.
86.24.030	Contracts authorized—Extent of participation.
86.24.040	Contracts between flood control districts and other governmental units.
86.24.050	State participation where state interest affected.

86.24.010 Declaration of policy. It is the purpose of the state of Washington, in the exercise of its sovereign and police powers, and in the interests of public welfare, to establish a state policy for the control of floods to the extent practicable and by economically feasible methods. [1935 c 163 § 1; RRS § 9662-1.]

86.24.020 Cooperation authorized. The department of ecology, in cooperation with the corps of engineers of the United States army, and any other agencies of the United States, and in cooperation with any official, agency or institution of the state and any flood control district created under the laws of the state, and any county, or any counties acting jointly pursuant to RCW 86.13.010 through 86.13.090, shall act for the state in the formulation of plans for the control of floods in the several flood areas of the state, and shall consider the extent to which the state should participate therein

with the United States and/or any flood control district, or county, or counties so acting jointly. In case of federal participation, the plan of development and the surveys, plans and specifications for such flood control projects shall be in accordance with the federal requirements therefor. [1987 c 109 § 64; 1935 c 163 § 2; RRS § 9662-2.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

86.24.030 Contracts authorized—Extent of participation. The state director of ecology, when state funds shall be available therefor, shall have authority on behalf of the state to enter into contracts with the United States or any agency thereof and/or with any such flood control district, county, or counties so acting jointly, for flood control purposes for any such flood control district, county, or counties so acting jointly, the amount of the state's participation in any such contract to be such sum as may be appropriated therefor, or, in event of unallocated state appropriations for flood control purposes, in such necessary sum as to any such contract as he or she shall determine. [2013 c 23 § 479; 1988 c 127 § 39; 1935 c 163 § 4; RRS § 9662-4.]

86.24.040 Contracts between flood control districts and other governmental units. In any case where the boundaries of any flood control district shall embrace all or any part of any county, city, town, diking, or drainage district, subject to flood conditions, the governing authorities thereof may contract with the directors of such flood control district, with the written approval of the state director, for the maintenance, repair, renewal and extension of any existing flood control works of such county, city, town, diking, or drainage district, situated within the flood control district, and for the construction and maintenance of specific flood control projects, for such term of years and for the payment to such flood control district therefor of such annual sums as in said contract specified. [1979 ex.s. c 30 § 19; 1935 c 163 § 6; RRS § 9662-6.]

86.24.050 State participation where state interest affected. State participation in flood control projects shall be in such as are affected with a state interest and to such extent as the legislature may determine. [1935 c 163 § 3; RRS § 9662-3.]

Chapter 86.26 RCW

STATE PARTICIPATION IN FLOOD CONTROL MAINTENANCE

Sections

86.26.005	Declaration of purpose.
86.26.007	Flood control assistance account—Use.
86.26.010	Administration and enforcement.
86.26.040	Duties of local engineer—Approval of plans, etc., by department of ecology—Grants to prepare comprehensive flood control management plan.
86.26.050	Projects in which state will participate—Allocation of funds.
86.26.060	Allocation of funds.
86.26.070	Flood control maintenance fund of municipal corporation—Composition—Use.
86.26.080	Annual budget reports of municipal corporations—Allocation of funds.
86.26.090	Scope of maintenance in which state will participate.
86.26.100	Agreement as to participation—Limit on amount.

(2018 Ed.)

86.26.105 Comprehensive flood control management plan—Requirements—Time for completion.

86.26.005 Declaration of purpose. It is the purpose of the state in the exercise of its sovereign and police powers and in the interest of public welfare, to establish a state and local participating flood control maintenance policy. [1951 c 240 § 2.]

86.26.007 Flood control assistance account—Use. The flood control assistance account is hereby established in the state treasury. At the beginning of the 2005-2007 fiscal biennium, the state treasurer shall transfer three million dollars from the general fund to the flood control assistance account. Each biennium thereafter the state treasurer shall transfer four million dollars from the general fund to the flood control assistance account, except that during the 2011-2013 fiscal biennium, the state treasurer shall transfer one million dollars from the general fund to the flood control assistance account. Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter. During the 2013-2015 fiscal biennium and the 2015-2017 fiscal biennium, the legislature may transfer from the flood control assistance account to the state general fund such amounts as reflect the excess fund balance of the account. During the 2017-2019 fiscal biennium, the legislature may appropriate moneys from the account for the purposes specified under chapter 90.94 RCW. [2018 c 299 § 917; 2015 3rd sp.s. c 4 § 978; 2013 2nd sp.s. c 4 § 1005; 2012 2nd sp.s. c 7 § 932; 2011 1st sp.s. c 50 § 976; 2009 c 564 § 961; 2005 c 518 § 947; 2003 1st sp.s. c 25 § 943; 1997 c 149 § 914; 1996 c 283 § 903; 1995 2nd sp.s. c 18 § 915; 1993 sp.s. c 24 § 928; 1991 sp.s. c 13 § 24; 1986 c 46 § 1; 1985 c 57 § 88; 1984 c 212 § 1.]

Effective date—2018 c 299: See note following RCW 43.41.433.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2012 2nd sp.s. c 7: See note following RCW 2.68.020.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Effective date—2009 c 564: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

86.26.010 Administration and enforcement. The department of ecology shall have charge for the state of the administration and enforcement of all laws relating to flood control. [1984 c 212 § 2; 1951 c 240 § 3.]

86.26.040 Duties of local engineer—Approval of plans, etc., by department of ecology—Grants to prepare comprehensive flood control management plan. Whenever state grants under this chapter are used in a flood control maintenance project, the engineer of the county within which the project is located shall approve all plans for the specific project and shall supervise the work. The approval of such plans, construction and expenditures by the department of ecology, in consultation with the department of fish and wildlife, shall be a condition precedent to state participation in the cost of any project beyond planning and designing the specific project.

Additionally, state grants may be made to counties for preparation of a comprehensive flood control management plan required to be prepared under RCW 86.26.050. [1994 c 264 § 77; 1988 c 36 § 63; 1986 c 46 § 2; 1984 c 212 § 3; 1951 c 240 § 6.]

86.26.050 Projects in which state will participate—Allocation of funds. (1) State participation shall be in such preparation of comprehensive flood control management plans under this chapter and chapter 86.12 RCW, cost sharing feasibility studies for new flood control projects, projects pursuant to section 33, chapter 322, Laws of 1991, and flood control maintenance projects as are affected with a general public and state interest, as differentiated from a private interest, and as are likely to bring about public benefits commensurate with the amount of state funds allocated thereto.

(2) No participation for flood control maintenance projects may occur with a county or other municipal corporation unless the director of ecology has approved the floodplain management activities of the county, city, or town having planning jurisdiction over the area where the flood control maintenance project will be, on the one hundred year floodplain surrounding such area.

The department of ecology shall adopt rules concerning the floodplain management activities of a county, city, or town that are adequate to protect or preclude flood damage to structures, works, and improvements, including the restriction of land uses within a river's meander belt or floodway to only flood-compatible uses. Whenever the department has approved county, city, and town floodplain management activities, as a condition of receiving an allocation of funds under this chapter, each revision to the floodplain management activities must be approved by the department of ecology, in consultation with the department of fish and wildlife.

No participation with a county or other municipal corporation for flood control maintenance projects may occur unless the county engineer of the county within which the flood control maintenance project is located certifies that a comprehensive flood control management plan has been completed and adopted by the appropriate local authority, or is being prepared for all portions of the river basin or other area, within which the project is located in that county, that are subject to flooding with a frequency of one hundred years or less.

(3) Participation for flood control maintenance projects and preparation of comprehensive flood control management plans shall be made from grants made by the department of ecology from the flood control assistance account. Comprehensive flood control management plans, and any revisions to the plans, must be approved by the department of ecology, in consultation with the department of fish and wildlife. The department may only grant financial assistance to local governments that, in the opinion of the department, are making good faith efforts to take advantage of, or comply with, federal and state flood control programs. [1994 c 264 § 78; 1991 c 322 § 6; 1988 c 36 § 64; 1986 c 46 § 3; 1985 c 454 § 1; 1984 c 212 § 4; 1951 c 240 § 7.]

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

86.26.060 Allocation of funds. Grants for flood control maintenance shall be so employed that as far as possible, funds will be on hand to meet unusual, unforeseeable and emergent flood conditions. Allocations by the department of ecology, for emergency purposes, shall in each instance be in amounts which together with funds provided by local authority, if any, under reasonable exercise of its emergency powers, shall be adequate for the preservation of life and property, and with due regard to similar needs elsewhere in the state. [1984 c 212 § 5; 1951 c 240 § 8.]

86.26.070 Flood control maintenance fund of municipal corporation—Composition—Use. Any municipal corporation subject to flood conditions, may establish in its treasury a flood control maintenance fund. Such fund may be maintained by transfer thereto of moneys derived from regular or special lawful levies for flood control purposes, moneys which may be lawfully transferred to it from any other municipal fund; and gifts and contributions received for flood control purposes. All costs and expenses for flood control maintenance purposes shall be paid out of said flood control maintenance fund, which fund shall not be used for any other purpose. [1951 c 240 § 9.]

86.26.080 Annual budget reports of municipal corporations—Allocation of funds. Any municipal corporation intending to seek state participating funds shall, within thirty days after final adoption of its annual budget for flood control purposes, report the amount thereof, to the engineer of the county within whose boundaries the municipal corporation lies. The county engineer shall submit such reports, together with reports from the county itself, to the department of ecology. On the basis of all such budget reports received, the department may thereupon prepare a tentative and preliminary plan for the orderly and most beneficial allocation of funds from the flood control assistance account for the ensuing calendar year. Soil conservation districts shall be exempted from the provisions of this section. [1984 c 212 § 6; 1951 c 240 § 10.]

86.26.090 Scope of maintenance in which state will participate. The state shall participate with eligible local authorities in maintaining and restoring the normal and reasonably stable river and stream channel alignment and the normal and reasonably stable river and stream channel capacity for carrying off flood waters with a minimum of damage from bank erosion or overflow of adjacent lands and property; and in restoring, maintaining and repairing natural conditions, works and structures for the maintenance of such conditions. State participation in the repair of flood control facilities may include the enhancement of such facilities. The state shall likewise participate in the restoration and maintenance of natural conditions, works or structures for the protection of lands and other property from inundation or other damage by the sea or other bodies of water. Funds from the flood control assistance account shall not be available for maintenance of works or structures maintained solely for the detention or storage of flood waters. [1991 c 322 § 7; 1984 c 212 § 7; 1951 c 240 § 11.]

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

86.26.100 Agreement as to participation—Limit on amount. State participation in the cost of any flood control maintenance project shall be provided for by a written memorandum agreement between the director of ecology and the legislative authority of the county submitting the request, which agreement, among other things, shall state the estimated cost and the percentage thereof to be borne by the state. In no instance, except on emergency projects, shall the state's share exceed seventy-five percent of the total cost of the project, to include project planning and design. Grants for cost sharing feasibility studies for new flood control projects shall not exceed fifty percent of the matching funds that are required by the federal government, and shall not exceed twenty-five percent of the total costs of the feasibility study. However, grants to prepare a comprehensive flood control management plan required under RCW 86.26.050 shall not exceed seventy-five percent of the full planning costs, but not to exceed amounts for either purpose specified in rule and regulation by the department of ecology. [2000 c 20 § 1; 1991 c 322 § 8; 1986 c 46 § 4; 1984 c 212 § 8; 1951 c 240 § 12.]

Findings—Intent—Purpose—1991 c 322: See notes following RCW 86.12.200.

86.26.105 Comprehensive flood control management plan—Requirements—Time for completion. A comprehensive flood control management plan shall determine the need for flood control work, consider alternatives to in-stream flood control work, identify and consider potential impacts of in-stream flood control work on the state's in-stream resources, and identify the river's meander belt or floodway. A comprehensive flood control management plan shall be completed and adopted within at least three years of the certification that it is being prepared, as provided in RCW 86.26.050.

If after this three-year period has elapsed such a comprehensive flood control plan has not been completed and adopted, grants for flood control maintenance projects shall not be made to the county or municipal corporations in the county until a comprehensive flood control plan is completed and adopted by the appropriate local authority. These limitations on grants shall not preclude allocations for emergency purposes made pursuant to RCW 86.26.060. [1986 c 46 § 5; 1984 c 212 § 9.]

