

## CHAPTER 159.

[S. S. B. 90.]

FLOOD CONTROL: PLACED UNDER SUPERVISOR OF  
HYDRAULICS.

AN ACT relating to floods, the alleviation of damage therefrom, and the regulatory control thereof, placing the administration of this act under the state supervisor of hydraulics, prescribing his authority and duties thereunder, making an appropriation therefor, and declaring that this act shall take effect immediately.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. The alleviation of recurring flood damages to public and private property, to the public health and safety, and to the development of the natural resources of the state is declared to be a matter of public concern, and 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 act.

Regulatory control over waters of state.

SEC. 2. Damages within the meaning of this act 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.

Damages, affecting safety and health.

Control:  
how  
exercised.

SEC. 3. State regulatory control shall be exercised through regulatory orders, the designation of flood control zones and the issuance of permits, as hereinafter provided, and 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.

Liability.

SEC. 4. The exercise by the state of regulatory powers as in this act provided shall not imply or create any liability for any damages against the state.

State super-  
visor of  
hydraulics.

SEC. 5. The state supervisor of hydraulics shall have authority to appoint and employ such assistants, professional, clerical and other services and to purchase such equipment, materials and supplies, as shall be necessary for the performance of his duties under this act.

Powers and  
duties.

Examination  
of  
structures.

SEC. 6. With respect to such features as may affect flood conditions, the state supervisor of hydraulics 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 flood plain or floodway of any stream or body of water in this state, except as to structures or works erected by any flood control district.

Structures  
maintained  
in violation  
of orders.

SEC. 7. Any existing structures or works hereafter reconstructed or modified and their operation or maintenance, and any structures or works hereafter constructed or maintained in violation of any order or orders of the state supervisor of hydraulics

shall be presumed to be a public nuisance and may be abated in the manner provided by law.

SEC. 8. Said state supervisor 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 deems necessary for the protection to life and property below such works from flood waters.

Dams and obstructions.

SEC. 9. The state supervisor of hydraulics shall have authority and it shall be his duty to establish and promulgate rules and regulations governing the administration of this act.

Rules and regulations.

SEC. 10. No person, firm, association or corporation, public, municipal or private, shall have the authority or the right hereafter to construct, reconstruct, or modify any structure or works affecting flood waters within any flood control zone, established under the provisions of this act, or to operate or maintain any such structure or work hereafter constructed, reconstructed or modified without a written permit from the state supervisor of hydraulics applied for and issued in accordance with such general rules and regulations as shall be established and promulgated for the purpose under the provisions of this act: *Provided, however,* That whenever, in cases of emergency, flood waters shall threaten to or shall endanger lives or damage property, or it shall be necessary to repair, reconstruct, or restore property damaged by such flood waters, in order that such property may be used immediately for the purpose or purposes theretofore used, no permit shall be required.

Need of written permit.

Emergency: exception.

SEC. 11. As soon as funds are available for the purpose the state supervisor of hydraulics shall undertake and conduct a careful study of the flood control needs of the state. In so doing he shall consult, consider and utilize any available data and

Study of flood control needs of state.

records gathered by the state planning council, all state departments and by other agencies, state or local, and it shall be the duty of all such agencies to cooperate with the supervisor in furnishing him all available data and records. The supervisor shall also make such field investigations and surveys as he shall deem necessary to carry out the provisions of this act.

Data and records.

Surveys.

U. S. geological maps.

SEC. 12. The quadrangle maps published by the United States geological survey and showing elevation contours shall be considered competent information upon which may be based the area and boundaries of watersheds for the establishment of flood control zones hereinafter provided for.

Flood control zones.

SEC. 13. The state supervisor of hydraulics shall have authority and it shall be his duty as soon as sufficient data are available for the purpose, to establish any area of the state subject to flood damages, beginning with such area as he shall select, into a flood control zone, in accordance with the objects of this act.

Alteration of boundaries.

SEC. 14. The boundaries and area of any established flood control zone may be altered and revised from time to time by the state supervisor of hydraulics under such general rules and regulations as may be prescribed under the provisions of this act.

Notice to owners: methods of giving.

SEC. 15. No flood control zone shall be established, altered or revised without notice previously given by the state supervisor of hydraulics to the owners of the lands included in such zone or in any alteration or revision thereof by previous publication of said notice in a newspaper of general circulation published in the county where said lands or the greater portion thereof are situated, and selected by said state supervisor, for three (3) consecutive weekly issues of said newspaper, stating briefly a general description in terms of government

sections, townships and ranges, of the lands within such zone or alteration or revision thereof, and the general objects of the establishment or alteration or revision of such zone and the day, hour and place where written objections may be submitted and heard.

SEC. 16. Notice of the establishment, alteration or revision of a flood control zone given substantially in the manner above prescribed, shall be construed to be sufficient notice thereof. Upon the establishment, alteration or revision of a flood control zone after such notice and hearing, the state supervisor of hydraulics shall make and enter a written order thereof and file the same in his office and the same shall be final and conclusive, unless an appeal therefrom be had within the time and in the manner provided in this act.

Written  
order  
after  
notice.

SEC. 17. Any person, association or corporation, public, municipal or private, feeling aggrieved at any order, decision, or determination of the state supervisor of hydraulics made pursuant to this act, affecting his interest, 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 matter affected, or a portion thereof is situated. The proceedings in every such appeal 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 had before judgment is pronounced. No such appeal shall be entertained unless notice of appeal containing a statement of the substance of the order, decision, or determination complained of and the manner in which the same injuriously affects the appellant's interests, shall have been served personally upon the state supervisor of hydraulics, or by registered mail, at his office at the state capitol, within twenty (20) days following the rendition of the order, deci-

Person  
aggrieved  
may appeal.

Proceedings  
for appeal.

sion or determination appealed from and communication thereof in writing to the person affected thereby. No bond shall be required except a stay is desired and an appeal shall not be a stay, unless within five (5) days following the service of notice of appeal 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. Costs shall be paid as in civil cases brought in the superior court, and the practice in civil cases shall apply. Appeal shall lie from the judgment of the superior court as in other civil cases. In all court proceedings under or pursuant to this section the decision of the state supervisor of hydraulics shall be prima facie correct. The attorney general shall be the legal advisor of the state supervisor of hydraulics and shall represent him in all proceedings whenever so requested.

Costs.

Legal advisor.

Does not affect other statutes.

SEC. 18. Nothing in this act contained shall be construed to alter, abridge or enlarge any power or duty of the state supervisor of hydraulics conferred or imposed by any other statute now or hereafter enacted.

Liberal construction.

SEC. 19. The provisions of this act and all proceedings thereunder shall be liberally construed with a view to effect their object.

Partial invalidity.

SEC. 20. If any section or provisions of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged to be invalid or unconstitutional.

Appropriation.

SEC. 21. For the purpose of carrying out the provisions of this act there is hereby appropriated out of the general fund to the department of conservation and development the sum of ten thousand dollars (\$10,000.00).

SEC. 22. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Effective immediately.

Passed the Senate March 11, 1935.

Passed the House March 13, 1935.

Approved by the Governor March 22, 1935.

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## CHAPTER 160.

[S. S. B. 113.]

### FLOOD CONTROL: POLICY.

AN ACT relating to flood control, facilitating a policy therefor, providing for the creation of flood control districts with certain powers and duties, providing for certain state supervision and control thereof, authorizing contracts between flood control districts and the United States, the state, counties, cities, towns, diking, drainage and waterway districts for flood control purposes, providing penalties for violations thereof and declaring that this act shall take effect immediately.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Flood control districts may be established, operated and maintained in this state, pursuant to this act, to provide for control, to the extent practicable and by economically feasible methods, of the whole, or any part, of the stream system of any main stream or tributary, and control against tidal or any bodies of water within this state, for the protection therefrom of life and property, public and private, the preservation of public health and the conservation and development of the natural resources of the State of Washington. Flood control districts: creation of.

SEC. 2. The term "main stream" as used in this act, shall be held and construed to be the principal Defining "main stream."