

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."

stream proposed to be controlled by the district. Such main stream may constitute the tributary of another stream inside or outside the district. In the event the district includes more than one tributary of a stream, or tributaries of different streams, outside the district, each tributary within the control of the district may be considered and dealt with as a main stream under the provisions of this act. The term "tributary" whenever used in this act with reference to a stream to be controlled by the district shall be held and construed to be a tributary of the main stream to be controlled by the district.

"Tributary."

Landowners' petition.

SEC. 3. A landowners' petition, signed by not less than ten (10) resident owners of land proposed to be included within the district and to be benefited by the maintenance thereof, may be filed with the director of the department of conservation and development of the State of Washington, hereinafter referred to as the state director, together with such proof of said land ownership as shall be satisfactory to said director

State director.

Terms and objects of petition.

SEC. 4. Said petition shall set forth in general terms the objects sought and the means by which the same may be accomplished, shall describe generally in terms of government sections, townships and ranges, the territory to be benefited, may contain allegations regarding any other matter deemed material by the petitioners, shall be signed by each of the petitioners, and shall specify their respective postoffice addresses. Neither the form, nor any of the allegations, of said petition shall be held or construed to be jurisdictional or to deprive the state director or the boundary commission hereinafter provided for of the authority, duties, and privileges in connection with the creation of the proposed district prescribed by the provisions of this act.

Not jurisdictional.

SEC. 5. Upon the filing of said petition, as herein provided, the state director shall refer the same to the appropriate division or divisions of his department for such investigation, at the expense of the department, as he shall deem advisable to determine the probable feasibility of the project proposed in the petition: *Provided*, That said state director shall not be required to consider said petition unless ample appropriation has been made for such purpose.

Appropriate  
division.

Ample  
appropriation.

SEC. 6. In connection with such investigation, said state director may make written request upon any officer, institution, or department of the state and of the United States for information, opinion or advice relative to any features thereof which are pertinently within the scope of the prescribed work of such officer, institution or department. Upon receipt of such request, it shall be the duty of such state officer, institution or department to furnish the state director in writing, without undue delay, the information, opinion or advice so requested.

Written  
request for  
information.

Written  
opinion.

SEC. 7. Said state director shall cause the investigation to be carried on expeditiously and shall make written report of his findings within ninety days from the date of the receipt of said petition: *Provided*, That a written extension of time for making said report may be given by a majority of the petitioners.

Report of  
findings.

SEC. 8. If, upon said investigation, the state director finds that the project outlined in said petition shows little or no probable feasibility, is not conducive to the public welfare, or not consistent with a comprehensive plan of development, he shall so declare in the report of his findings and dismiss said petition.

Dismissing  
of  
petition.

SEC. 9. If, however, upon said investigation, the state director finds that the project outlined in said

Approval  
of  
petition.

petition, or such modification thereof as he may suggest, shows probable feasibility, is conducive to the public welfare, and consistent with a comprehensive plan of development, he shall so declare in the report of his findings, and shall approve the petition subject to any such suggested modifications.

Records.

Copies of  
report  
filed.

SEC. 10. Said original petition and the written report of the state director's findings thereon shall be given an appropriate title and shall remain a part of the records of his department. He shall forthwith mail or deliver a copy of the report of his findings to the petitioner whose name first appears on said petition, unless otherwise directed in the petition, in which event it shall be mailed or delivered personally to the person so designated. At the same time, he shall mail a copy of said report, with a copy of said petition attached, to the board of commissioners of each county in which any of the lands to be benefited from the organization and maintenance of the proposed flood control district are situated, and such board of county commissioners shall file the same among the records of its office and permit public inspection thereof during office hours.

Creation of  
commission.

SEC. 11. Upon such approval of the project, either as originally proposed in said petition, or as modified by the state director in the report of his findings, the state director shall create a commission which shall consider and determine the feasibility of the project and the boundaries of such proposed flood control district.

Commis-  
sion's com-  
posed of.

SEC. 12. Said commission shall be composed of the state director, the state supervisor of hydraulics, hereinafter referred to as the state supervisor, the state director of highways, one person representing the state planning council, and one person a resident of, or representing, the region affected to be designated and appointed by said state director of the

department of conservation and development: *Provided*, That the state director may appoint any person in his judgment qualified for the position, to fill a vacancy or vacancies in the personnel of said commission

Vacancies.

SEC. 13. The state director shall be ex-officio chairman, and the state supervisor ex-officio clerk, of said commission. A majority of the members of said commission shall constitute a quorum for the transaction of business or exercise of any of its powers, functions, and duties.

Ex-officio chairman, and clerk.

Quorum.

SEC. 14. Said commission shall prescribe rules for the government of its deliberations, employ necessary help and service, receive evidence, and make investigations independent of the record before it, to determine the feasibility of the proposed project and the boundaries of the proposed flood control district, may adjourn its meetings from time to time and place to place and to do any and all things necessary, appropriate or incidental to the discharge of its duties.

Duties of commission.

SEC. 15. In considering the feasibility of the project, the commission shall formulate a plan of proposed construction and an estimate of its cost, itemized generally so as to be reasonably specific as to the various parts and units thereof, including a plan of finance and of cooperation with other agencies: *Provided*, That such plans and the estimates shall be tentative and preliminary only and shall not be held or construed to be a limitation on the right and authority of the district, if created, to adopt plans and to carry out improvements as the district directors shall determine in accordance with this act. The commission, by majority vote of its members, shall determine the feasibility of the proposed project and file with the state director the report of its findings thereon, and mail a copy thereof

Plan of proposed construction.

Tentative.

Majority vote.

to the the board of county commissioners of each county in which any of the lands described in said petition are located. If the commission shall find and report that the proposed project is not feasible, the state director shall dismiss the petition.

Special meetings.

SEC. 16. Special meetings of the commission may be called by the chairman or by three members thereof by written notice specifying the time and place of the meeting, mailed by United States mail to each member at his address shown in the records of the commission.

Adjournment.

SEC. 17. If no quorum be present at any meeting of the commission, the members present may adjourn the meeting to a place and day certain, upon notifying the absent members by United States mail of the time and place to which said meeting was adjourned.

Expenses.

SEC. 18. Unless otherwise provided for, the necessary expenses of the commission and of its members in performing such duties shall be borne by the state department of conservation and development.

Establishing of boundaries.

Notice of such hearing.

SEC. 19. Upon receipt of the commission's report that the proposed project is feasible, the state director shall fix a time and place for the commission to meet for the purpose of considering and establishing the boundaries of the proposed district, and shall publish notice of such hearing in each county in which any of the lands in the proposed district are situated. He shall mail a copy of such notice at least twenty days prior to the date of hearing, to the board or boards of county commissioners of each county in which the lands described in said petition are located, and to each member of said commission. The hearing shall be held at some suitable place in the county where the lands, or the major portion of the lands, described in said peti-

tion are located. Notice of such hearing shall be published as in this act provided.

SEC. 20. Except as in this act otherwise provided, any notice required under the provisions of this act to be published in any county, shall be published in the official newspaper thereof and if there be no official newspaper therein, then in a newspaper of general circulation published in such county, and if there is no official or other newspaper of general circulation published in such county, then some newspaper of general circulation therein, published outside said county, naming it in the notice. Said notice shall be published for two weeks (three consecutive weekly issues) and the day of first publication shall be at least twenty days prior to the day set in such notice for hearing or proceeding.

Newspaper  
publication.

Two weeks.

SEC. 21. The notice of hearing to establish the boundaries of the proposed district shall state the day, hour and place of the hearing and that a landowners' petition for the creation of a flood control district under the provisions of this act, giving the chapter of the published session laws of the state and the year of the legislative session which enacted the law, has been filed with the state director of the department of conservation and development, who has made a report of his findings upon investigation of the same; that copies of said petition and said report and the report of the boundary commission finding that the proposed project is feasible has been filed with the boards of county commissioners of each county in which any of the lands benefited from the organization and maintenance of a flood control district are situated and may be inspected at the offices of these boards during office hours by any interested person; shall specify generally the boundaries of the proposed district, and shall state that all persons having or claiming any interest in the lands, or in any part thereof, situated

Contents of  
notice of  
hearing.

Copies of  
petition  
and report  
filed with  
boards.

Persons  
with interest  
in land.

within the boundaries of the proposed district, and all persons otherwise interested, are required at or before the time of said hearing to file in writing with said state director, as chairman of the boundary commission provided for in this act, such objections as they may have, if any, to the establishment of boundaries for the proposed flood control district. Said notice shall carry the name of the chairman of said commission, together with his postoffice address, at its conclusion.

Objections.

Chairman's name and address.

Description of course of boundary lines.

Benefits to lands.

Map of proposed district.

Consideration of boundaries.

Notice of hearing.

File affidavits.

SEC. 22. The course of the boundary lines of the proposed district may be described in said notice with regard generally to the contour of the territory involved and the benefits which the included lands shall receive from the control of the floods therein, and may be located on government section, township and range lines or lines of fractional parts of sections, where such method of location in the opinion of said director will not violate substantially the elements above mentioned to be considered in determining the course of the boundary lines of the district. As an alternative method, such boundaries may be described by a survey traverse showing courses and distances with appropriate ties to government corners, in which case there shall be submitted and filed with the commission's report a map of the proposed district with the boundary lines platted thereon.

SEC. 23. At such hearing the commission shall meet to consider the boundaries to be established for the proposed district. Said commission shall first determine whether the notice of hearing was published in the manner and for the time required by this act and shall file the affidavit or affidavits of the publisher of said notice among its records.

SEC. 24. If the notice of hearing was not legally published, the commission shall so find and adjourn

the hearing to a time and place certain and order new notice of hearing. If notice of hearing was legally published, the commission shall so find and shall proceed to receive any pertinent evidence that may be offered in regard to the establishment of boundaries for the proposed district.

Legal publishing of notice.

SEC. 25. Said commission shall consider the lands and territory to be benefited by the project and may increase or diminish the area, or change the boundaries thereof to include benefited lands, or exclude lands not benefited thereby: *Provided*, That no lands not within the boundaries described in the notice of hearing shall be included within the district without new notice and hearing as in this act provided, and said commission, by majority vote of its members, shall establish and define, by any of the above mentioned methods, the boundaries so as to subserve the best interests of the proposed district and to enable it to carry out the objects of its creation and shall file with the state director its findings and order thereon, and mail a copy thereof to the commissioners of each county in which any of the lands embraced within such established boundaries are located.

Changing of boundaries.

New notice and hearing.

SEC. 26. The commission in its order shall designate a name for the district and direct the state director to call an election to be held therein for the purpose of determining whether or not the proposed district with boundaries established by the commission shall be created. When the commission shall have established the boundaries of such proposed district it shall deliver all papers and records involved in its deliberations to the state director to be preserved among the records of his department, and thereupon, the functions of said commission shall cease and it shall ipso facto be dissolved and discharged.

Name for district.

Election.

Records to state director.

State  
director's  
statement  
of proceed-  
ings: con-  
tents of.

Approval  
of  
attorney  
general.

Certifying  
of  
proposition.

Voting at  
election.

Certifying  
of results  
to state  
director.

If propo-  
sition is  
not adopted.

SEC. 27. When the commission shall have established the boundaries of the proposed district, the state director, with the advice and approval of the attorney general, shall prepare a brief statement of the proceedings, preliminary to and including the establishment of boundaries, the description of the boundaries and shall call and fix a date for an election to be held therein to determine whether or not such proposed district shall be created and shall mail a copy thereof, at least forty-five (45) days before the date of such election, to the board of county commissioners of each county in which any of the lands in the proposed district are located. He shall, with the advice and approval of the attorney general, certify to the election board of each county, or counties, in which such proposed district is located, at least forty-five (45) days before the date of such election, such proposition in the form of a ballot title of not to exceed twenty-five (25) words so framed as to enable voters favoring the proposition to vote "Flood District Organization, Yes" and those opposed thereto to vote "Flood District Organization, No" and the election shall be held on the day so fixed. The county auditor of each such county, when the election board has canvassed such election in such county, shall certify the result to the state director. Such proposition shall be adopted and assented to by a majority of the qualified voters of such proposed district voting thereon.

SEC. 28. If such proposition is not adopted and assented to by a majority of the voters voting thereon at said election, the state director shall forthwith so find and file the same among the records of his department under the title of the designated flood control district and a copy thereof shall be mailed to the board of county commissioners of each county in which any of the lands within the boundaries of the proposed district are situated and shall

be by such board preserved among the records of its office. Upon such finding, all proceedings had to create the proposed district shall become nullified and of no effect and the project cannot be revived without the initiation of new proceedings as in this act provided.

Nullifying  
of  
proceedings.

SEC. 29. If such proposition is adopted and assented to by a majority of the voters voting thereon at said election, the state director shall so find and shall make an order setting forth the name of, describing the boundaries of, and declaring the territory within such district to be duly established as a flood control district under the provisions of this act and shall file the same among the records of his department.

If proposi-  
tion is  
adopted.

SEC. 30. A certified copy of said order shall be filed for record in the office of the auditor of each county in which any lands within the flood control district are situated, and shall be entitled to record without payment of filing or recording fee.

Copy filed  
in county  
auditor's  
office.

No fee.

SEC. 31. From and after the filing for record of such certified copy in the office of the auditor of each such county, the creation of the district shall be complete and its existence cannot thereafter be legally questioned by any individual or corporation, except the State of Washington in an appropriate court action brought within six (6) months from the date of the state director's order establishing the district. If the existence of said district is not challenged by the State of Washington within such period, it shall thereafter be forever barred from questioning the legal existence of said district by reason of any defect in proceedings had for the creation of said district.

Creation  
of district  
complete.

Court  
action.

SEC. 32. Any flood control district created under this act shall constitute a body corporate and shall possess all the usual powers of a corporation for

Powers  
of a  
corporation.

Non-con-  
tractual  
acts or  
omissions.

Political  
subdivision  
of the  
state.

District has  
power to  
carry out  
purposes  
of act.

Construction  
and opera-  
tion of  
flood  
control  
projects.

public purposes as well as all powers that may now or hereafter be conferred by law, and shall not be liable for the torts of its officers, agents and employees. No action shall be brought or maintained against any flood control district, its agents, officers or employees, for any non-contractual acts or omissions of such flood control district, its officers, agents or employees. Any flood control district created under this act shall be a political subdivision of the state and shall be held and construed to be a municipal corporation within the provisions of the state constitution relating to exemption from taxation and within its provisions relating to the debt limits of municipal corporations.

SEC. 33. Any flood control district shall have authority to carry out the purposes of this act and to that end may 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, may enter into and perform any and all necessary contracts, appoint and employ the necessary officers, agents and employees, may sue and be sued and do any and all lawful acts required and expedient for its purposes.

SEC. 34. Any flood control district, for the control of waters subject to flood conditions from streams, tidal or other bodies of water, affecting such district, may inside or outside the boundaries of the district, 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; 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 and property, including beds of non-navigable 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 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 by this act.

Purchase, condemning lands.

SEC. 35. Any flood control district may contract with, and/or contribute funds to, or receive funds from, the United States, or any agency thereof, and/or with, and/or contribute funds to, or receive funds from, the State of Washington for surveys, construction, reconstruction, betterment or extension, or any supervision thereof, operation or maintenance of necessary district works for the control of floods, for such periods and upon such terms as may be designated therein. Pursuant to any such contract, the district may deposit its general obligation bonds, at not less than par value and accrued interest, with the United States, or any agency thereof, and/or with the State of Washington, as payment by the district under such contract, or as security for its future payment thereunder.

May contract with U. S. and agencies.

Deposit of general obligation bonds.

SEC. 36. Whenever the United States shall participate in the construction of any district flood control project, the contract may provide that the designated federal agency shall have charge of such construction. Whenever the state, but not the United States, shall participate in the construction of any flood control project, the district directors shall have charge of construction, subject to supervision, inspection and approval of the state director. Before the district shall enter into any contract for construction, reconstruction or repairs, or for materials therefor, the plans, specifications, proposal and form

Federal agency in charge.

District directors in charge.

Approval of state director. of contract shall be submitted to and approved in writing by the state director.

Levy of an annual tax. SEC. 37. Any flood control district may raise revenue by the levy of an annual tax on all taxable property within such district, such levy to be made and taxes collected at the same time and in the same manner now or hereafter provided by law for the levy and collection of county taxes, such levy not to exceed two mills on the dollar in any one year: *Provided, however,* That such annual levy may be increased to five mills on the dollar when a proposition therefor shall be adopted and assented to by a majority of the qualified voters voting thereon at a general or special election therefor.

Not to exceed two mills on the dollar.

Exception.

Limit on amount of indebtedness. SEC. 38. No flood control district shall for any purpose become indebted in any manner to an amount exceeding one and one-half per centum of the taxable property in such district without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness at any time exceed three per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness.

Public use. SEC. 39. The taking and damaging of property or rights therein or thereto by any flood control district, either inside or outside of such district, for flood control purposes of the district is hereby declared to be for a public use. Such eminent domain proceedings shall be in the name of the district, shall be had in the county where the property is situated, and may unite in a single action proceedings to condemn for district use property held by separate owners, the jury to return separate verdicts for the several lots, tracts or parcels of land, or

Proceedings to condemn.

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 district shall be the fee simple title or such lesser estate as shall be designated in the decree of appropriation.

Conform  
with 921 to  
926, Rem.  
Rev. Stat.

SEC. 40. Before any flood control works shall be undertaken by any district, its board of directors shall by resolution adopt a comprehensive plan of flood control for such district, subject to the written approval of the state director. Such plan, to meet changes in conditions, may be modified by similar resolution and approval. Certified copies of such resolutions and approval thereof shall be filed in the office of the state director by the district board. Flood control works shall conform in all substantial respects to such comprehensive plan or modification thereof, and may be constructed in parts or units until the entire plan has been completed. Whenever the flood plain of a main stream shall embrace portions of two or more counties, the comprehensive plan for any flood control district shall be formulated in view of, and as part of, the regimen of the stream as a whole. In case the district shall embrace lands in more than one county the resolution for the comprehensive plan shall be adopted by the affirmative vote of at least two of the directors from each county, and shall fix the order of priority in which the flood control works, structures and improvements shall be undertaken by the district.

Adoption of  
a plan of  
flood control.

Parts or  
units until  
completed.

SEC. 41. No contract shall be entered into with the State of Washington and/or the United States as herein provided, until a proposition therefor shall have been submitted to and adopted and assented to by a majority of the qualified voters of the district

Proposition  
must be  
voted upon  
before  
making con-  
tract with  
U. S.

Vote on  
indebtedness.

voting thereon at a general or special election: *Provided*, That if, by reason of such contract, said district shall become indebted in any manner to an amount exceeding one and one-half per centum of the taxable property in such district, such proposition shall be adopted and assented to by three-fifths of the qualified voters of the district voting thereon.

Monthly  
payments.

SEC. 42. District contracts for construction, services or materials, may provide for payments in monthly proportion of the contract price, as the work progresses, or as the services or materials are furnished, on monthly estimates of the value thereof.

Public  
bidding.

SEC. 43. All district contracts for construction, labor, or materials entering therein, shall be awarded at public bidding, except as herein otherwise provided. A notice calling for sealed proposals shall be published for a period of two weeks (three consecutive weekly issues) and the date of first publication shall be at least fifteen days prior to the day of opening such bids. Such proposals shall be accompanied by a certified check for the amount specified in the form of proposal, to guarantee 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 and all bids.

Bond  
necessary.

SEC. 44. Any person, except the State of Washington and/or the United States, to whom a contract may be awarded by the district for construction purposes, or for labor or materials entering therein, shall enter into a bond to the State of Washington, with good and sufficient sureties, to be approved by and filed with the state director, for at least seventy-five per cent (75%) of the contract price, conditioned for the faithful performance of said contract and with such further conditions as required by law.

SEC. 45. In instances of emergency to be declared by resolution of the district directors may, by force account, or by contract without public bidding and without reference to the state director for approval, expend not to exceed ten thousand dollars (\$10,000.00) for purposes of flood protection within the district.

Emergencies.

SEC. 46. Any flood control district may, without public bidding, with the written approval of the state director, contract for any improvement, or part thereof, not exceeding two thousand five hundred dollars (\$2,500.00).

May improve to extent of \$2500 without bids.

SEC. 47. Before beginning construction of any improvement, or unit thereof, there shall be filed with and approved by the state director a schedule of such proposed expenditures in such form as he shall prescribe, and no expenditures shall be made for any other purpose or in excess of the amount allowed in such schedule without his written consent.

Must file schedule.

SEC. 48. All construction work done by or in behalf of the district shall be done to the satisfaction of the state director, and no monthly or final settlement shall be made with a person, firm or corporation, under contract with the district, until the work has been inspected, at the expense of the district, and a certificate of approval given, by said director.

Inspection of work.

SEC. 49. Districts shall prepare and maintain all records of their operation and proceedings upon forms prescribed by the state director, with advice of the state auditor, and furnished at the expense of the district.

Must keep record.

SEC. 50. The officers, agents and employees of any flood control district shall have the right to enter upon any land for surveys and location of necessary flood control works and improvements.

Right to enter upon any land.

SEC. 51. Whenever in the progress of the construction of the system of district improvement, it

Construction across roads.

shall become necessary to construct any stream channel or protection works 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, of the present necessity therefor, giving the location, kind, dimensions and requirement thereof, and stating a reasonable time within which plans for such crossing must be filed for approval in case the public officers, corporation or person controlling or owning such road or public utility desire to 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 state director for approval triplicate detailed plans and specifications for such crossing. Upon submission of such plans, the state director shall, at the expense of the district, examine as to the adequacy of such plans for the discharge of waters across such road or public utility and approve the same as to adequacy of discharge or require such modification as shall permit such adequate discharge, and return one thereof to the public officers, corporation or person submitting the same, file the duplicate in his office, and return one to the district board and shall notify such corporation or person of the time within which said crossing must be constructed. Upon the return of such approved plans, the corporation or person controlling such road or public utility shall, within the time fixed by the state director, construct such crossing in accordance with the approved plans. In case such 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 may proceed with the construction of such crossing in such manner as will cause no unnecessary

Shall submit plans for.

Approval of plans.

Failure to submit plans.

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 district improvement shall be a proper charge against the district, and only the actual cost of such district improvement constructed in accordance with the approved plans shall be allowed as a charge against the district in the case of crossings constructed by others than the district.

Cost of construction.

SEC. 52. 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.

Right-of-way.

SEC. 53. The directors of a flood control district shall be ex-officio the county commissioners of the county in which such district is located. The directors shall organize as a board each year and elect a chairman from their number. The county auditor shall be clerk of the board and its records shall be kept in the office of the board of county commissioners.

Organization of board of directors.

SEC. 54. Whenever a district embraces lands in more than one county the directors of such district shall be, ex-officio, the county commissioners of such counties, and each meeting thereof shall be presided over by one of those present selected by vote. In such case, the county auditor of the county wherein the meeting is held shall be clerk of the meeting, and shall make a duplicate record of its proceedings, one of which, with his certificate thereon, shall be forwarded to the county auditor of the other county to be kept in the office of the board of county commissioners of such county.

More than one county in district.

SEC. 55. The board shall adopt a seal of the district, shall manage and conduct its business

Management of district.

affairs, establish reasonable rules and regulations therefor, employ and appoint engineers and attorneys, with approval of the state director, and such agents, officers and employees as may be necessary, and prescribe their duties, and generally shall perform any and all acts necessary to carry out the purpose of the district. A majority of the directors shall constitute a quorum for the transaction of business.

Quorum of board.

Office of the directors.

SEC. 56. The office of the district directors shall be in the office of the commissioners of the county in which the district is situated, or, in case the district shall embrace lands in more than one county, then the main office shall be the office of the commissioners of the county in which the ex-officio district treasurer is located. In case the district embraces lands in more than one county, meetings of the district directors, regular and special, may be held in the office of the commissioners of any such county. The district directors shall by resolution fix the time and place of regular meetings, and may adjourn any meeting from time to time.

Special meetings.

SEC. 57. Special meetings of the board may be held at any time by a majority of the directors, provided that in case of a district embracing lands in more than one county, at least two of the directors from each such county shall be present.

Meetings and records public.

SEC. 58. All meetings of the directors shall be public. All records of the board shall be open for public inspection during business hours. The board of directors shall be allowed their actual necessary expenses when engaged on district business. The board shall fix the compensation of the agents and employees of the district.

Expenses.

Shall not be interested in any contract.

SEC. 59. No director or any other officer of the district 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 misdemeanor, and conviction thereof shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment.

Misdemeanor.

SEC. 60. Every official, upon expiration or sooner termination of his term of office as an officer of the district, shall immediately turn over and deliver, under oath, to his successor in office, all records, books, papers and other property under his control and belonging to such office. In case of the death of any officer, his legal representative shall turn over and deliver the same to the successor in office of such deceased person.

Delivery of records to successors.

SEC. 61. There is hereby created for each flood control district an expense fund. The county treasurer of the county in which the major area of the lands in the district is situated shall be ex-officio district treasurer, shall have charge of the expense fund, into which all district monies shall be covered and from which all district payments shall be made by warrants, except as to bonds or coupons presented to the treasurer for payment. The county auditor of such county shall be ex-officio district auditor.

Creation of expense fund.

SEC. 62. District warrants shall bear interest at a rate not greater than six (6) per centum per annum, unless a less rate be specified therein, and shall be paid by the district treasurer in the order of their number, date and issue and shall cease to draw interest at the expiration of ten days from and after the date of first publication of any call made by the district treasurer for the payment of warrants.

Warrants shall bear interest.

Creation of  
sinking fund.

SEC. 63. There is hereby created for each flood control district a bond sinking fund. It shall be the duty of the district directors, in the manner provided by law, to make an annual tax levy sufficient to meet the annual or semi-annual payments of principal and interest on general obligation bonds of the district.

Collection of  
taxes on  
lands.

SEC. 64. It shall be the duty of the county treasurer of each county, in which lands included within the district are located, to collect and receipt for all taxes levied in such county as herein provided and to forward not later than the tenth day of each month all sums so collected to the ex-officio district treasurer, who shall place the same to the credit of the proper funds.

Monthly  
report by  
treasurer.

SEC. 65. The ex-officio district treasurer shall report in writing on or before the 15th day of each month to the district board, the amount of money held by him, the amount in each fund, the amount of receipts for the month preceding and the amount paid out and said report shall be filed with the secretary of the board.

No compensation for  
ex-officio  
officers.

SEC. 66. Each county officer, acting ex-officio under this act, shall receive no additional compensation therefor. Any county officer, acting ex-officio under this act, shall be liable upon his official bond and to criminal prosecution for malfeasance, misfeasance or nonfeasance in office relative to any of his ex-officio duties prescribed herein.

May submit  
propositions  
to people.

SEC. 67. The directors of the district may, by resolution submit any proposition to the electors of the district at any general or special elections. The election to establish the district, and all district elections, general or special, shall be held and conducted at the times, by the officials, on notice and in the manner now or hereafter prescribed by law for city elections in the county in which such flood con-

trol district is situated: *Provided*, That whenever such flood control district shall embrace lands in more than one county, such election shall be held at the time prescribed by law for holding city elections in the county in which the greater part in area of the flood control district is situated: *Provided, further*, That the state director shall call and fix the date of the election to establish the district, which may be a date other than that fixed by law for such city elections. The cost of the election to organize the district shall be borne by the county, or counties, in which the proposed district lands are situated.

Elections held; when.

The qualifications of electors to vote at general elections shall be applicable to this act.

SEC. 68. On or before the fifteenth day of July in each year, the district board shall prepare a budget for the ensuing year, on forms prescribed by the state director with advice of the state auditor, and submit the same to the state director for his suggestions, revision and approval. Upon the approval of the budget by the state director, the board shall in conformity thereto determine the total amount of money to be levied for district purposes for such ensuing year.

Shall prepare budget annually.

SEC. 69. It shall be the duty of the county assessor in each county in which all or any part of a flood control district is situated, on or before the first day of September in each year, to certify to the directors of such district the total assessed value of the real and personal property in his county within such district. It shall be the duty of the directors of any such district situated within, or co-extensive with, any county, on or before the second Monday in October in each year to certify to the county assessor of such county the amount of taxes levied upon the property within such district for district purposes and, wherever any district shall embrace lands in

Annual report of value of property.

Annual report of amount of taxes levied.

more than one county, to certify to the county assessors of each such county the total amount of taxes levied within the district for district purposes, the total assessed valuation of real and personal property within the district, segregated as to counties as shown by such assessors' certificates, and the amount of taxes levied in each county upon the property within the district for district purposes.

Costs borne  
by motor ve-  
hicle fund ;  
when.

SEC. 70. Whenever any proposed flood control works in any flood control district shall result in protection against flood damage to any highway maintained by the state, the cost, or so much thereof as shall represent the protection to such highway, shall be borne by and paid from the motor vehicle fund. The amount to be so paid shall be determined by the governor, the director of highways and said state director and their majority decision shall be final.

Claims  
against  
district.

SEC. 71. All claims 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 agent and approved by the board and certified by the clerk and directed to the ex-officio district auditor, for the issuance of a warrant in payment of said claim. 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 names of the individual claimants, but may be receipted for by said foreman. No single warrant shall be issued for a greater amount than five hundred dollars, except when there is cash in hand in the district fund to pay the same on presentation.

May issue  
bonds.

SEC. 72. Any flood control district may incur indebtedness for district purposes and issue general obligation bonds to procure money therefor as in

this act provided. The directors of the district, with the written approval of the state director, shall by resolution submit to the electors of the district, at a general or special election to be held therein, a proposition for incurring such indebtedness and the issuance and sale of such bonds, stating therein the purpose, amount of bonds, the serial method of payment, the bond rate of interest, not exceeding six (6) per cent per annum, that the bonds shall be serial in form and shall finally mature at a date specified, not exceeding thirty years from the date of their issue. The ballot title shall contain a brief statement of said proposition, not to exceed twenty-five (25) words, and the words, "Bonds, Yes" and "Bonds, No." Such proposition shall be adopted and assented to by a majority of the qualified voters of the district voting thereon: *Provided*, That if, by reason of such indebtedness, said district shall become indebted in any manner to an amount exceeding one and one-half per centum of the taxable property in such district, such proposition shall be adopted and assented to by three-fifths of the qualified voters of the district voting thereon.

Ballots.

SEC. 73. Said bonds shall be registered or coupon bonds; shall be issued in denominations of not less than one hundred or more than one thousand dollars; shall be numbered from one upwards consecutively; shall bear the date of their issue; shall be serial in form finally maturing not more than thirty years from date; shall bear interest not exceeding six per cent per annum, payable annually or semi-annually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. The bonds and each coupon shall be signed by the chairman of the district board, and shall be attested by the ex-officio auditor, as clerk, of said board, and the seal of such

Form of bonds.

board shall be affixed to each bond, but not the coupons. Signatures on the coupons may be by lithographic facsimile. Said bonds shall be printed, engraved or lithographed, on good bond paper, shall on their face set forth the title of this act and the date of its approval, and a duly authenticated copy of the resolution directing the submission of the proposition to the qualified voters of such district for ratification or rejection shall be printed on each bond, together with a printed copy of a signed statement by the chairman and ex-officio auditor, as clerk, showing the result of said election. Otherwise, proceedings relative to the issuance and sale of said bonds shall comply with chapter 151 of the Session Laws of 1923, as now or hereafter amended, and the amortized annual maturities of said bonds may be in compliance with chapter 30, of the Laws of the Extraordinary Session of 1933. Such bonds may be registered as to principal, pursuant to the provisions of chapter 91 of the Session Laws of 1915, as now or hereafter amended, in which case the district directors, may designate by resolution an officer for the performance of such duties and may designate by resolution the fiscal agency of the State of Washington for the performance of such duties, upon arrangements as in said act provided.

Dissolution  
of districts.

SEC. 74. Flood control districts may be dissolved when a proposition therefor submitted by resolution of the district directors shall be adopted and assented to by majority of the qualified voters of the district voting thereon at a general or special election to be held therein, and no further district obligations shall thereafter be incurred: *Provided*, That said election shall not abridge or cancel any of the outstanding obligations of the district, and the board or boards of county commissioners therefore constituting the said board of directors of the flood control district shall each year levy taxes as

Shall not  
cancel out-  
standing  
obligations.

in this act provided until said outstanding obligations of the district are fully paid.

SEC. 75. When the district has been dissolved and its obligations fully paid, any remaining moneys in the funds of the district and collections of unpaid district taxes shall be transferred to the state reclamation revolving fund, as partial reimbursement for moneys expended and services rendered by the state department of conservation and development for and in behalf of said district, and thereupon said state director 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 are situated and thereafter the dissolution of said district shall be deemed complete and its corporate existence ended.

Remaining moneys transferred to reclamation revolving fund.

SEC. 76. This act shall not be held or construed to limit any powers now or hereafter granted by law to counties, acting alone, or to counties acting jointly pursuant to the provisions of chapter 54 of the Session Laws of 1913, as now or hereafter amended, or to cities, towns, diking, drainage or waterway districts.

Shall not limit powers.

SEC. 77. Whenever any diking, drainage or waterway district, shall be embraced within the boundaries of any flood control district, and existing works and facilities of such diking, drainage or waterway district shall be useful for the purposes of such flood control district and in conformity with its adopted and approved comprehensive plan of flood control, the directors of the flood control district may contract with the governing authorities of such diking, drainage or waterway district that the maintenance, repair, renewal, and extension of such existing works and facilities, or any part thereof, shall be undertaken by such flood control district, upon terms and conditions, to be specified in such

May contract with other districts.

Contract  
approved.

contract: *Provided*, That such contract shall be approved in writing by the state director.

Liberal  
construction.

SEC. 78. The provisions of this act and all proceedings thereunder shall be liberally construed with a view to effect their objects.

Partial  
invalidity.

SEC. 79. If any section or provision 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.

Effective  
immediately.

SEC. 80. 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.

Passed the Senate March 9, 1935.

Passed the House March 12, 1935.

Approved by the Governor March 22, 1935.

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## CHAPTER 161.

[S. B. 319.]

### WASHINGTON NATIONAL GUARD; RETAINED PAY.

AN ACT relating to the payment of retained pay for enlisted men of the National Guard and making an appropriation therefor.

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

Payment of  
retained  
pay.

SECTION 1. WHEREAS, there is in existence statutory provision for the payment to every enlisted man of the national guard of the State of Washington attending the prescribed annual encampments the sum of fifty cents (50¢) per day, such sum to be retained until the expiration of his term of service or honorable discharge, and