

CHAPTER 153.

[Sub. H. B. 30.]

FLOOD CONTROL ZONE DISTRICTS.

AN ACT enlarging the powers of counties to control flood waters; authorizing counties to create flood control zone districts; vesting such flood control zone districts with all the powers available to counties to control flood waters; authorizing the levy, assessment and collection of taxes and the issuing of bonds; and declaring an emergency.

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

SECTION 1. *Definitions.* As used in this act the following words shall mean:

“Board.” The board of county commisioners of any county, or the county commissioners, serving as ex officio board of supervisors of any zone or zones;

“Flood control improvement.” Any works, projects, or other facilities necessary for the control of flood waters within the county or any zone or zones;

“Flood waters.” Any storm waste or surplus waters wherever located within the county or a zone or zones where such waters endanger public highways, streams and water courses, harbors, life or property;

“Participating zones.” Two or more zones found to benefit from a single flood control improvement;

“Zones.” Flood control zone districts which shall be municipal corporations of the state of Washington created by this act.

SEC. 2. *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 groups of projects which are of special benefit to specified areas of the county. Formation of a zone may also be initiated by a petition signend 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 such petition in a resolution within forty days after receiving such 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 such petition within forty-five days. If the petition is found to meet the requirements specified herein the auditor shall transmit the same to the board for their action; if the petition fails to meet the requirements of this act, it shall be returned to the sponsors thereof.

SEC. 3. *Zones — 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 zones; 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 other corrections or additions to the resolu-

tion as they deem necessary to the accomplishment of the purpose of this act: *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.

Within ten days after final hearing on a resolution, the board shall issue its order.

SEC. 4. *Limitation on the formation of zones.* Any zone to be created pursuant to this act which includes lands located within the limits of any city or town or flood control district shall, prior to its creation, be approved by the legislative body of such city, town or district: *Provided*, That unless such city or town or district legislative body approves or disapproves the creation of such zone within one hundred and twenty days after receiving a request for approval from the board, it shall be conclusively presumed that such legislative body approves the creation of such zone: *Provided further*, That if within ninety days following legislative approval or disapproval ten percent of the electors of such city, town or district, file with the county auditor a petition requesting an election, such city, town or district shall conduct an election within its limits to determine if the residents of such city, town or district wish to be included within or excluded from such zone. The results of such election shall be binding, and the cost of such election shall be borne by the city, town or district.

SEC. 5. *Zones — Governing body.* 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.

SEC. 6. *Administration.* 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 board, the engineer may organize, or reorganize as required, the zone into such departments, divisions or other administrative relationships as he deems necessary to its efficient operation.

SEC. 7. *Advisory committee.* The board may appoint a county-wide advisory committee and 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 the committee or committees shall serve without pay but may receive their reasonable expenses and shall serve at the pleasure of the board.

SEC. 8. *General powers.* A zone or participating zone may:

(1) Exercise all the powers vested in a county for flood control purposes under the provisions of chapter 86.12 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 improvements and works to control, conserve and remove flood waters;

(3) Take action necessary to protect life and property within the district from flood water damage;

(4) Control, conserve, retain, reclaim and remove flood waters 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 act;

(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.

SEC. 9. *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 section 8 of this act outside its territorial limits.

SEC. 10. *Flood control improvements—Authorization.* The board may authorize the construction, extension, enlargement or acquisition of necessary flood control improvements within the zone or any participating zones. Such 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 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.

SEC. 11. *Flood control improvements—Initiation.* Flood control improvements may be extended, enlarged, acquired or constructed by a zone pursuant to a resolution adopted by the board. Such resolution shall specify:

(1) Whether the improvement is to be extended, enlarged, acquired or constructed;

(2) That 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 such comprehensive plan of development: *Provided*, That improvements initiated before July 1, 1965, may be undertaken without reference to a comprehensive plan: *And provided further*, That such plan shall be first submitted to the state department of conservation at least ninety days in advance of the beginning of any project of improvement; and shall be subject to all the regulatory control provisions by the state supervisor of flood control as provided in RCW chapter 86.16.

(3) If the improvement is to be constructed, that preliminary engineering studies and plans have been made, and that such plans and studies are on file with the county engineer;

(4) The estimated cost of the acquisition or construction of such improvement, together with such supporting data as will reasonably show how such 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.

SEC. 12. *Flood control improvements—Hearing, notice.* Before finally adopting a resolution to undertake any flood control improvement, the board shall hold a hearing thereon. Notice and publication of such hearing shall be given pursuant to the provisions of RCW 36.32.120 (7). The board may conduct any such hearing concurrently with a hearing on the establishment of a flood control zone, and may in such case designate such proposed zone a beneficiary of any improvement.

SEC. 13. *Zone treasurer — Funds.* The treasurer of each zone shall be the county treasurer. He shall establish within his 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.

SEC. 14. *Budget.* The board shall annually at the same time county budgets are prepared adopt a budget for each zone which shall be divided into the following appropriation items: (a) overhead and administration, (b) maintenance and operation, (c)

construction and improvements, and (d) bond retirement and interest. In preparing such budget, the board shall show the total amount to be expended in each appropriation item and proportionate share of each appropriation item to be paid from each account of the zone.

In preparing the annual budget, the board shall under appropriation item of construction and improvement list each flood control improvement and the estimated expenditure to be made for each during the ensuing year. The board 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).

SEC. 15. *County aid.* Whenever the board finds under the provisions of section 11 of this act that a flood 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 board finds that the maintenance and operation of any flood control improvement within any zone will be of benefit to the overall flood control program of the county, the board may authorize the transfer of any funds available to the county for flood control purposes to any zone or participating zones for flood control purposes.

SEC. 16. *Additional levies and assessments.* For the purposes of this act the board may authorize:

(1) A special annual ad valorem levy within any zone or participating zones when authorized by the voters of such zone or participating zones pursuant to the provisions of RCW 84.52.052 and RCW 84.52-.054; and

(2) An assessment upon property specially ben-

efted by an improvement made pursuant to the provisions of chapter 86.08 RCW; and

(3) Within any zone or participating zones an annual levy of not to exceed two mills when such levy will not take millage which other taxing districts may lawfully claim and which will not cause the combined levies to exceed the forty mill limitation, and such additional levy, or any portion thereof, may also be made when millage of other taxing units is released therefor by agreement with the other taxing units from their authorized levies.

SEC. 17. *Bonds.* The board may authorize the issuance of general obligation bonds to finance any flood control improvement. Such general obligation bonds may be issued only when authorized by the voters pursuant to RCW 84.52.056. Such 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 section 11 of this act, been found to be of benefit to a zone or participating zones.

SEC. 18. *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 act when such agency, department, subdivision or municipal corporation finds such action will materially contribute to the protection of publicly owned property under its jurisdiction.

SEC. 19. *Abatement of nuisances.* The board may order, on behalf of the county, 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 which materially contribute to the dangers of loss of life or property from flood

waters. Where such 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 such abatement is not completed within the time ordered by the court the county may abate the nuisance and charge the cost of such action against the land upon which such nuisance is located and the payment of such charge may be enforced and collected in the same manner at the same time as county property taxes.

SEC. 20. *Flood control zones—Consolidation, abolition.* 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 abolition 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 section 2 of this act, 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.

SEC. 21. *Transfer of property.* A diking, drainage or sewage improvement district, flood control district, or zone may convey title to any property improvements or assets of such districts or zone to the county or a zone for flood control purposes: *Provided*, That if such property improvements or assets are surplus to the needs of such district or zone such transfer may be made by private negotiations, in all

other cases such transfers shall be subject to the approval of a majority of the registered voters within such district or zone: *And provided further*, That nothing in this section shall permit any district or zone to impair the obligations of any debt or contract of such district or zone.

SEC. 22. *Planning of improvements.* Nothing in this act shall be construed as limiting the right of counties under the provisions of RCW 86.12 to undertake the planning or engineering studies necessary for flood control improvements or financing the same from any funds available for such purposes.

SEC. 23. *Public necessity of act.* This act 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.

SEC. 24. *Severability—Construction.* If any provision of this act, as now or hereafter amended, or its application to any person or circumstance is held invalid, the remainder of the act, and its application to other persons or circumstances shall not be affected.

SEC. 25. *Construction of act.* 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.

SEC. 26. *Titles not part of the act.* The section titles shall not be considered a part of this act.

SEC. 27. *Emergency clause.* This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state govern-

ment and its existing public institutions, and shall take effect immediately.

Passed the House February 28, 1961.

Passed the Senate March 7, 1961.

Approved by the Governor March 17, 1961.

CHAPTER 154.

[H. B. 47.]

WEATHER MODIFICATION AND CONTROL.

AN ACT relating to weather modification and control; amending section 2, chapter 245, Laws of 1957 and RCW 43.37.020; amending section 11, chapter 245, Laws of 1957 and RCW 43.37.110; amending section 12, chapter 245, Laws of 1957 and RCW 43.37.120; and amending section 14, chapter 245, Laws of 1957 and RCW 43.37.140.

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

SECTION 1. Section 2, chapter 245, Laws of 1957 and RCW 43.37.020 are each amended to read as follows:

(1) There is established a weather modification board to consist of the director of conservation, who shall be the chairman and who shall exercise no vote except in case of a tie vote, nine members all appointed by the governor, including a member of the faculty of Washington State University, a member of the faculty of the University of Washington, one member to be a person experienced in, and actually engaged in the commercial production of horticultural products, three members to be persons experienced in, and actually engaged in the commercial production of other agricultural products, and three members representing the general public. Members appointed to represent horticulture, other agricultural products, and the general public, shall each represent a different congressional district in order that each congressional district of the state

RCW 43.37.020 amended.

Board established—Composition, appointment, qualifications, compensation, quorum.