

WATER CODE - WAT

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]

(Heading of Division 6 amended by Stats. 1957, Ch. 1932.)

PART 6. WATER DEVELOPMENT PROJECTS [12570 - 12949.6]

(Part 6 added by Stats. 1953, Ch. 196.)

CHAPTER 4.5. Maintenance Areas [12878 - 12878.45]

(Heading of Chapter 4.5 renumbered from Chapter 5 by Stats. 1963, Ch. 464.)

ARTICLE 1. Formation of Maintenance Areas [12878 - 12878.21]

(Article 1 added by Stats. 1957, Ch. 1800.)

12878.

Unless the context otherwise requires, the following definitions apply throughout this chapter:

- (a) "Department" means Department of Water Resources.
- (b) "Director" means the Director of Water Resources.
- (c) "Board" means the State Reclamation Board.
- (d) Wherever the words "board or department" or "board or director" are used together in this chapter they shall mean board as to any project in the Sacramento or San Joaquin Valleys or on or near the Sacramento River or the San Joaquin River or any of their tributaries, and department or director as to any project in any other part of the state outside of the jurisdiction of the board.
- (e) "Project" means any project that has been authorized pursuant to Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) and concerning which assurances have been given to the Secretary of the Army or the Secretary of Agriculture that the state or a political subdivision thereof will operate and maintain the project works in accordance with regulations prescribed by the federal government or any project upon which assurances have been given to the Secretary of the Army and upon which the Corps of Engineers, United States Army, has performed work pursuant to Section 208 of Public Law 780, 83rd Congress, 2nd Session, approved September 3, 1954.
- (f) "Maintenance" means work described as maintenance by the federal regulations issued by the Secretary of the Army, the Secretary of Agriculture, the department, or the board for any project.

(g) "Maintenance area" means described or delineated lands that are found by the board or department to be benefited by the maintenance and operation of a particular unit of a project.

(h) "Unit" means any portion of the works of a project designated as a unit by the board or department, other than the works prescribed in Section 8361, or works operated and maintained by the United States.

(i) "Land" includes improvements.

(j) "Local agency" means and includes all districts or other public agencies responsible for the operation of works of any project under Section 8370, Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) or any other law of this state.

(k) "Cost of operation and maintenance" means, for the purposes of maintenance areas established after July 31, 2004, as the result of relinquishment by a local agency pursuant to Section 12878.1 only, the cost of all maintenance, as defined in subdivision (f), and shall also include, but is not limited to, all of the following costs:

(1) All costs incurred by the department or the board in the formation of the maintenance area under this chapter.

(2) Any costs, if deemed appropriate by the department, to secure insurance covering liability to others for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(3) Any costs of defending any action brought against the state, the department, or the board, or any employees of these entities, for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(4) Any costs incurred in the payment of any judgment or settlement of an action against the state, the department, or the board, or any employees of these entities, for damages arising from the formation of the maintenance area or from any maintenance activities of the department or flooding in the maintenance area.

(Amended by Stats. 2007, Ch. 368, Sec. 10. Effective January 1, 2008.)

[12878.1.](#)

(a) If the department determines that a unit of a project is not being operated or maintained in accordance with the standards established by federal regulations, if the department determines that the modification of a unit of a project that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the governing body of a local agency obligated to operate and maintain that unit by resolution duly adopted

and filed with the department declares that it no longer desires to operate and maintain the project unit, the department shall prepare a statement to that effect specifying in detail the particular items of work necessary to be done in order to comply with the standards of the federal government and the requirements of the board or the department together with an estimate of the cost thereof for the current fiscal year and for the immediately ensuing fiscal year.

(b) Subject to subdivision (c), but notwithstanding any other provision of law, the board or the department is not required to proceed in accordance with subdivision (a) or with the formation of a maintenance area under this chapter if neither the board nor the department has given the nonfederal assurances to the United States required for the project. If neither the board nor the department has given the nonfederal assurances to the United States required for the project, the board or department may elect to proceed with the formation if it determines that the formation of a maintenance area is in the best interest of the state.

(c) If a local agency requests the department to form a maintenance area by resolution duly adopted and filed with the department, the department shall estimate the cost of preparing the statement of necessary work and the cost thereof, and all other applicable costs incurred by the department before the formation of the maintenance area. The department shall submit that estimate to the local agency. The department is not required to perform any additional work to form that maintenance area until the local agency pays the department the amount estimated pursuant to this subdivision.

(Amended by Stats. 2007, Ch. 368, Sec. 11. Effective January 1, 2008.)

12878.2.

The statement shall include a description of the unit and the name of the local agency, if any, responsible for its operation and maintenance and such statement shall be transmitted to the affected local agency in all cases and also to the board as to projects under its jurisdiction.

(Added by Stats. 1957, Ch. 1800.)

12878.3.

Any such statement shall not be admissible as evidence in any court action brought against the local agency, its governing body or any member thereof or the State or any of its officials, nor shall the failure of the local agency, its governing body, or any member thereof, or the State or any of its officials, to

comply with anything which may be specified as necessary in any such statement, be construed as negligence in any such action.

(Added by Stats. 1957, Ch. 1800.)

12878.4.

If the local agency, within 45 days after the date of receipt of the said statement of the department, files a protest thereto with the board or department setting forth in detail the basis of its objections, then the board or department shall schedule a hearing to be held within 30 days of the filing of the said protest to hear any relevant information which said local agency may care to present in support of its protest. As to projects under the jurisdiction of the board, the board shall make such investigation as it deems necessary to determine the likelihood that the unit will thereafter be operated and maintained satisfactorily by the local agency. The said local agency shall be given at least 10 days written notice of the date and place of said hearing. Representatives of the local agency, the department and other interested parties may appear at the said hearing and present any information relevant to the said protest of the local agency or in support of the statement of the department. Upon conclusion of said hearing, if the board or department finds that there are no items of defective maintenance, or that the local agency will correct the deficiencies and maintain and operate the project works in accordance with the standards established by the federal regulations, there shall be no further proceedings under the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.5.

If no protest is received by the board or department pursuant to the provisions of the preceding section, the board or department shall adopt and establish the estimated sum previously set forth in the statement of the department made pursuant to Section 12878.1 of this code as the amount necessary to maintain the unit during the current and the ensuing fiscal year and shall thereupon proceed with the formation of a maintenance area in accordance with the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.6.

If, within 30 days after conclusion of the hearing held pursuant to Section 12878.4 of this code, the governing body of the local agency has not given assurances satisfactory to the board or department that the said local agency will correct the deficiencies and maintain and operate the project works in accordance with the standards established by the federal regulations, or that such local agency does not desire to continue to operate and maintain such unit, or that there is no such local agency obligated to so maintain and operate such unit, the board or department shall establish the amount of money necessary to maintain the unit during the current and ensuing fiscal year and shall proceed with the formation of a maintenance area in accordance with the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.7.

The board or department shall prepare a description of the proposed boundaries together with a map thereof for each maintenance area to be formed. For the purpose of preparing these boundaries and this map, the board or department shall make such investigations as may be necessary and may utilize any and all books, maps, or other relevant records, whether or not on file in the offices of the board or department or any other office or agency of the State. All officers or agencies of the State shall render whatever assistance may be required to facilitate the work of the board or department pursuant to the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.8.

Any maintenance area may be divided into zones when it is determined by the investigation that the benefit to the land in the area is not uniform throughout the area.

(Added by Stats. 1957, Ch. 1800.)

12878.9.

If a maintenance area is divided into zones, the zones shall be given a numerical designation starting with Zone 1 which shall be the zone which receives the greatest proportional benefit. This benefit shall be expressed as 100 percent and the benefits received by the other zones shall be expressed in terms of relatively

smaller percentages as such benefits compare with those received by Zone 1. The map of the proposed boundaries of the maintenance area shall also show the boundaries of the zones, if any, therein and the percentages of benefits to each such zone. The amount to be collected from each zone of a maintenance area shall be determined by the following formula: the assessed valuation of the land within the zone, multiplied by the percentage of benefit for that zone, multiplied by the total amount to be collected in the maintenance area; divided by the sum of the various products obtained by multiplying the assessed valuation of each zone in the maintenance area by its corresponding percentage of benefit.

(Added by Stats. 1957, Ch. 1800.)

12878.10.

Upon completion of the said description and map, the board or department shall schedule a hearing to be held either at some convenient place within the proposed boundaries of the maintenance area or at Sacramento, whichever appears to the board or department to be more convenient for all interested parties.

(Added by Stats. 1957, Ch. 1800.)

12878.11.

Notice of the hearing shall be given by publication in at least one newspaper of general circulation within the proposed boundaries of the maintenance area for at least once a week for two successive weeks.

(Added by Stats. 1957, Ch. 1800.)

12878.12.

The notice shall state the time and place of hearing, that the purpose of the hearing is to establish the boundaries of the maintenance area benefited by the continued operation and maintenance of the unit, and the location of the place or places where the map showing the proposed boundaries as determined by the board or department may be inspected by any interested person. The notice shall include a description of the maintenance area, which may be brief and in general terms.

(Added by Stats. 1957, Ch. 1800.)

12878.13.

At the hearing any owner of land within the proposed boundaries of the maintenance area or other interested person may offer, and the board or department shall receive, any relevant evidence or testimony relating to the establishment of the boundaries of the area, the zones therein, or the benefits to be received by the continued operation and maintenance of the unit. Any such owner or interested person may object to the inclusion of land within the maintenance area or any zone therein or may request the inclusion of any other land within the area or a change in the boundaries or percentage of benefits of any zone.

(Added by Stats. 1957, Ch. 1800.)

12878.14.

Land lying without the exterior boundaries of the proposed maintenance area as shown on the map prepared by the board or department shall not be included within the maintenance area unless at the hearing the owner thereof consents or the owner is given notice and an opportunity to object to such inclusion and to be heard thereon.

(Added by Stats. 1957, Ch. 1800.)

12878.15.

When any such additional land is proposed to be included and the owner's consent is not given, the hearing shall be adjourned to a specified time and place.

(Added by Stats. 1957, Ch. 1800.)

12878.16.

Notice of such adjourned hearing, where additional land is to be included, and the purpose thereof shall be given by publication of notice at least once a week for two successive weeks in a newspaper of general circulation in the county in which the land, or the greater portion of the land, sought to be included is situated, or, in lieu of such publication, by service by registered mail upon the owner of such land as determined by the last equalized assessment roll in accordance with which such land was assessed.

(Added by Stats. 1957, Ch. 1800.)

12878.17.

Upon the final conclusion of such hearing the board or department shall establish the boundaries of the maintenance area and of the zones therein and the percentages of benefits of the respective zones, in such manner that all of the lands benefited by the continued operation and maintenance of the unit will be included in the maintenance area and that all land within the area will be classified in proportion to the benefits received by it.

(Added by Stats. 1957, Ch. 1800.)

12878.18.

Land benefited by more than one unit may be included within as many maintenance areas as there are units by which it is benefited.

(Added by Stats. 1957, Ch. 1800.)

12878.19.

The establishment of a maintenance area pursuant to this chapter shall be evidenced by an order or resolution of the board or director creating such area. The order or resolution shall describe the boundaries of the maintenance area and of the zones and the percentage of benefits for each zone, if any, and each such area shall be given a name, which may include a number, by which the area shall be known and designated. Such name shall be as brief as circumstances permit.

(Added by Stats. 1957, Ch. 1800.)

12878.20.

The order or resolution determining and establishing the boundaries thereof shall be filed for record in the office of the county recorder of each county within which any portion of a maintenance area is located. Thereupon the determination and establishment of such maintenance area shall be complete.

(Added by Stats. 1957, Ch. 1800.)

12878.21.

Upon the formation of a maintenance area, the department shall thereafter operate and maintain the unit until such time as the maintenance area may be dissolved pursuant to this chapter. If the board or the department forms a maintenance area for a portion of a unit of a project, any remaining portion of the unit of a project not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit.

(Amended by Stats. 2007, Ch. 368, Sec. 12. Effective January 1, 2008.)

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ARTICLE 1. Formation of Maintenance Areas [12878 - 12878.21]

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12878.

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- (e) "Project" means any project that has been authorized pursuant to Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) and concerning which assurances have been given to the Secretary of the Army or the Secretary of Agriculture that the state or a political subdivision thereof will operate and maintain the project works in accordance with regulations prescribed by the federal government or any project upon which assurances have been given to the Secretary of the Army and upon which the

Corps of Engineers, United States Army, has performed work pursuant to Section 208 of Public Law 780, 83rd Congress, 2nd Session, approved September 3, 1954.

(f) "Maintenance" means work described as maintenance by the federal regulations issued by the Secretary of the Army, the Secretary of Agriculture, the department, or the board for any project.

(g) "Maintenance area" means described or delineated lands that are found by the board or department to be benefited by the maintenance and operation of a particular unit of a project.

(h) "Unit" means any portion of the works of a project designated as a unit by the board or department, other than the works prescribed in Section 8361, or works operated and maintained by the United States.

(i) "Land" includes improvements.

(j) "Local agency" means and includes all districts or other public agencies responsible for the operation of works of any project under Section 8370, Chapter 2 (commencing with Section 12639) or Chapter 4 (commencing with Section 12850) or any other law of this state.

(k) "Cost of operation and maintenance" means, for the purposes of maintenance areas established after July 31, 2004, as the result of relinquishment by a local agency pursuant to Section 12878.1 only, the cost of all maintenance, as defined in subdivision (f), and shall also include, but is not limited to, all of the following costs:

(1) All costs incurred by the department or the board in the formation of the maintenance area under this chapter.

(2) Any costs, if deemed appropriate by the department, to secure insurance covering liability to others for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(3) Any costs of defending any action brought against the state, the department, or the board, or any employees of these entities, for damages arising from the maintenance activities of the department or from flooding in the maintenance area.

(4) Any costs incurred in the payment of any judgment or settlement of an action against the state, the department, or the board, or any employees of these entities, for damages arising from the formation of the maintenance area or from any maintenance activities of the department or flooding in the maintenance area.

(Amended by Stats. 2007, Ch. 368, Sec. 10. Effective January 1, 2008.)

[12878.1.](#)

(a) If the department determines that a unit of a project is not being operated or maintained in accordance with the standards established by federal regulations, if the department determines that the modification of a unit of a project that has been permitted by the board and that provides flood protection is not being operated or maintained in accordance with the requirements established by the board or the department, or if the governing body of a local agency obligated to operate and maintain that unit by resolution duly adopted and filed with the department declares that it no longer desires to operate and maintain the project unit, the department shall prepare a statement to that effect specifying in detail the particular items of work necessary to be done in order to comply with the standards of the federal government and the requirements of the board or the department together with an estimate of the cost thereof for the current fiscal year and for the immediately ensuing fiscal year.

(b) Subject to subdivision (c), but notwithstanding any other provision of law, the board or the department is not required to proceed in accordance with subdivision (a) or with the formation of a maintenance area under this chapter if neither the board nor the department has given the nonfederal assurances to the United States required for the project. If neither the board nor the department has given the nonfederal assurances to the United States required for the project, the board or department may elect to proceed with the formation if it determines that the formation of a maintenance area is in the best interest of the state.

(c) If a local agency requests the department to form a maintenance area by resolution duly adopted and filed with the department, the department shall estimate the cost of preparing the statement of necessary work and the cost thereof, and all other applicable costs incurred by the department before the formation of the maintenance area. The department shall submit that estimate to the local agency. The department is not required to perform any additional work to form that maintenance area until the local agency pays the department the amount estimated pursuant to this subdivision.

(Amended by Stats. 2007, Ch. 368, Sec. 11. Effective January 1, 2008.)

12878.2.

The statement shall include a description of the unit and the name of the local agency, if any, responsible for its operation and maintenance and such statement shall be transmitted to the affected local agency in all cases and also to the board as to projects under its jurisdiction.

(Added by Stats. 1957, Ch. 1800.)

12878.3.

Any such statement shall not be admissible as evidence in any court action brought against the local agency, its governing body or any member thereof or the State or any of its officials, nor shall the failure of the local agency, its governing body, or any member thereof, or the State or any of its officials, to comply with anything which may be specified as necessary in any such statement, be construed as negligence in any such action.

(Added by Stats. 1957, Ch. 1800.)

12878.4.

If the local agency, within 45 days after the date of receipt of the said statement of the department, files a protest thereto with the board or department setting forth in detail the basis of its objections, then the board or department shall schedule a hearing to be held within 30 days of the filing of the said protest to hear any relevant information which said local agency may care to present in support of its protest. As to projects under the jurisdiction of the board, the board shall make such investigation as it deems necessary to determine the likelihood that the unit will thereafter be operated and maintained satisfactorily by the local agency. The said local agency shall be given at least 10 days written notice of the date and place of said hearing. Representatives of the local agency, the department and other interested parties may appear at the said hearing and present any information relevant to the said protest of the local agency or in support of the statement of the department. Upon conclusion of said hearing, if the board or department finds that there are no items of defective maintenance, or that the local agency will correct the deficiencies and maintain and operate the project works in accordance with the standards established by the federal regulations, there shall be no further proceedings under the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.5.

If no protest is received by the board or department pursuant to the provisions of the preceding section, the board or department shall adopt and establish the estimated sum previously set forth in the statement of the department made pursuant to Section 12878.1 of this code as the amount necessary to maintain the unit during the current and the ensuing fiscal year and shall thereupon

proceed with the formation of a maintenance area in accordance with the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.6.

If, within 30 days after conclusion of the hearing held pursuant to Section 12878.4 of this code, the governing body of the local agency has not given assurances satisfactory to the board or department that the said local agency will correct the deficiencies and maintain and operate the project works in accordance with the standards established by the federal regulations, or that such local agency does not desire to continue to operate and maintain such unit, or that there is no such local agency obligated to so maintain and operate such unit, the board or department shall establish the amount of money necessary to maintain the unit during the current and ensuing fiscal year and shall proceed with the formation of a maintenance area in accordance with the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.7.

The board or department shall prepare a description of the proposed boundaries together with a map thereof for each maintenance area to be formed. For the purpose of preparing these boundaries and this map, the board or department shall make such investigations as may be necessary and may utilize any and all books, maps, or other relevant records, whether or not on file in the offices of the board or department or any other office or agency of the State. All officers or agencies of the State shall render whatever assistance may be required to facilitate the work of the board or department pursuant to the provisions of this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.8.

Any maintenance area may be divided into zones when it is determined by the investigation that the benefit to the land in the area is not uniform throughout the area.

(Added by Stats. 1957, Ch. 1800.)

12878.9.

If a maintenance area is divided into zones, the zones shall be given a numerical designation starting with Zone 1 which shall be the zone which receives the greatest proportional benefit. This benefit shall be expressed as 100 percent and the benefits received by the other zones shall be expressed in terms of relatively smaller percentages as such benefits compare with those received by Zone 1. The map of the proposed boundaries of the maintenance area shall also show the boundaries of the zones, if any, therein and the percentages of benefits to each such zone. The amount to be collected from each zone of a maintenance area shall be determined by the following formula: the assessed valuation of the land within the zone, multiplied by the percentage of benefit for that zone, multiplied by the total amount to be collected in the maintenance area; divided by the sum of the various products obtained by multiplying the assessed valuation of each zone in the maintenance area by its corresponding percentage of benefit.

(Added by Stats. 1957, Ch. 1800.)

12878.10.

Upon completion of the said description and map, the board or department shall schedule a hearing to be held either at some convenient place within the proposed boundaries of the maintenance area or at Sacramento, whichever appears to the board or department to be more convenient for all interested parties.

(Added by Stats. 1957, Ch. 1800.)

12878.11.

Notice of the hearing shall be given by publication in at least one newspaper of general circulation within the proposed boundaries of the maintenance area for at least once a week for two successive weeks.

(Added by Stats. 1957, Ch. 1800.)

12878.12.

The notice shall state the time and place of hearing, that the purpose of the hearing is to establish the boundaries of the maintenance area benefited by the continued operation and maintenance of the unit, and the location of the place or places where the map showing the proposed boundaries as determined by the

board or department may be inspected by any interested person. The notice shall include a description of the maintenance area, which may be brief and in general terms.

(Added by Stats. 1957, Ch. 1800.)

12878.13.

At the hearing any owner of land within the proposed boundaries of the maintenance area or other interested person may offer, and the board or department shall receive, any relevant evidence or testimony relating to the establishment of the boundaries of the area, the zones therein, or the benefits to be received by the continued operation and maintenance of the unit. Any such owner or interested person may object to the inclusion of land within the maintenance area or any zone therein or may request the inclusion of any other land within the area or a change in the boundaries or percentage of benefits of any zone.

(Added by Stats. 1957, Ch. 1800.)

12878.14.

Land lying without the exterior boundaries of the proposed maintenance area as shown on the map prepared by the board or department shall not be included within the maintenance area unless at the hearing the owner thereof consents or the owner is given notice and an opportunity to object to such inclusion and to be heard thereon.

(Added by Stats. 1957, Ch. 1800.)

12878.15.

When any such additional land is proposed to be included and the owner's consent is not given, the hearing shall be adjourned to a specified time and place.

(Added by Stats. 1957, Ch. 1800.)

12878.16.

Notice of such adjourned hearing, where additional land is to be included, and the purpose thereof shall be given by publication of notice at least once a week for two successive weeks in a newspaper of general circulation in the county in

which the land, or the greater portion of the land, sought to be included is situated, or, in lieu of such publication, by service by registered mail upon the owner of such land as determined by the last equalized assessment roll in accordance with which such land was assessed.

(Added by Stats. 1957, Ch. 1800.)

12878.17.

Upon the final conclusion of such hearing the board or department shall establish the boundaries of the maintenance area and of the zones therein and the percentages of benefits of the respective zones, in such manner that all of the lands benefited by the continued operation and maintenance of the unit will be included in the maintenance area and that all land within the area will be classified in proportion to the benefits received by it.

(Added by Stats. 1957, Ch. 1800.)

12878.18.

Land benefited by more than one unit may be included within as many maintenance areas as there are units by which it is benefited.

(Added by Stats. 1957, Ch. 1800.)

12878.19.

The establishment of a maintenance area pursuant to this chapter shall be evidenced by an order or resolution of the board or director creating such area. The order or resolution shall describe the boundaries of the maintenance area and of the zones and the percentage of benefits for each zone, if any, and each such area shall be given a name, which may include a number, by which the area shall be known and designated. Such name shall be as brief as circumstances permit.

(Added by Stats. 1957, Ch. 1800.)

12878.20.

The order or resolution determining and establishing the boundaries thereof shall be filed for record in the office of the county recorder of each county within which any portion of a maintenance area is located. Thereupon the determination and establishment of such maintenance area shall be complete.

(Added by Stats. 1957, Ch. 1800.)

12878.21.

Upon the formation of a maintenance area, the department shall thereafter operate and maintain the unit until such time as the maintenance area may be dissolved pursuant to this chapter. If the board or the department forms a maintenance area for a portion of a unit of a project, any remaining portion of the unit of a project not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit.

(Amended by Stats. 2007, Ch. 368, Sec. 12. Effective January 1, 2008.)

ARTICLE 3. Modification of Maintenance Areas [12878.23 - 12878.24]

(Article 3 added by Stats. 1957, Ch. 1800.)

12878.23.

(a) The board or the department may modify the boundaries of any established maintenance area or zones within the maintenance area, the description of works to be maintained within the maintenance area, and the determination of relative benefits within any zone, upon its own initiative or upon petition by the governing body of the local agency formerly responsible for the operation and maintenance of the unit or by the board of supervisors of the county in which all or a portion of the unit is located.

(b) The board or the department may consolidate maintenance areas that share a common boundary.

(Amended by Stats. 2007, Ch. 368, Sec. 13. Effective January 1, 2008.)

12878.24.

Upon receipt of any such petition for modification or upon initiation of any such proceeding by its own action the board or department shall conduct such modification proceedings as near as may be in the manner provided in this chapter for the formation of maintenance areas, and may make such modification if in its discretion and judgment the best interests of the State and the area affected will be served thereby.

(Added by Stats. 1957, Ch. 1800.)

ARTICLE 4. Assessments for Maintenance and Operation [12878.25 - 12878.40]

(Article 4 added by Stats. 1957, Ch. 1800.)

12878.25.

The land within each zone, and the land within each maintenance area, if no zones are established therein, shall be conclusively presumed to be benefited by the continued operation and maintenance of the unit in accordance with the assessed valuation of the land and the improvements thereon or in accordance with its benefit product as defined in Section 12878.40, and shall be subject to assessment as provided in this article.

(Amended by Stats. 1982, Ch. 759, Sec. 1. Effective September 8, 1982.)

12878.26.

Each maintenance area is a district within which assessments are collected according to the value or to the benefit product as defined in Section 12878.40 of the land therein, and the provisions of Chapter 8 (commencing at Section 54900), Part 1, Division 2, Title 5 of the Government Code shall be complied with.

(Amended by Stats. 1982, Ch. 759, Sec. 2. Effective September 8, 1982.)

12878.27.

The department shall, prior to the first day of April of each year, estimate the cost of the operation and maintenance of each unit during the ensuing fiscal year and during the current fiscal year where no assessment has been levied or collected for the current fiscal year and adjust such estimates as provided in Section 12878.44. The department shall transmit a copy of such estimates to the board as to all units within the jurisdiction of the board.

(Added by Stats. 1957, Ch. 1800.)

12878.28.

Following the first day of April of each year, the board or department shall hold a hearing at Sacramento on the matter of fixing the estimates and assessments for

all units to be operated or maintained by the department pursuant to this chapter.

(Added by Stats. 1957, Ch. 1800.)

12878.29.

Notice of the hearing shall be given by publication in at least one newspaper of general circulation in each maintenance area affected for at least once a week for two successive weeks.

(Added by Stats. 1957, Ch. 1800.)

12878.30.

The notice shall set the time and place of the hearing which shall be held not less than 10 days following the completion of publication as to all maintenance areas, and shall state that the purpose of the hearing is to confirm or modify or revise the program of work to be performed on the units for which estimates have been made pursuant to Section 12878.27, and to determine the necessity for such work and the amount of the estimates therefor.

(Added by Stats. 1957, Ch. 1800.)

12878.31.

At the hearing any owner of land in any maintenance area affected, or other interested person may offer, and the board or department shall receive, any relevant evidence or testimony concerning the proposed program of work relating to any such unit, the necessity for such work, or the estimate of the cost thereof.

(Added by Stats. 1957, Ch. 1800.)

12878.32.

Upon the final conclusion of such hearing the board or department shall fix the amount of the estimate for each such unit for all purposes of the assessments provided for in this article, and in all cases where the board fixes the said amount it shall immediately notify the department of the amounts thereof.

(Added by Stats. 1957, Ch. 1800.)

12878.33.

If any area or zone lies within more than one county, the department shall divide the amount of the estimate in the proportion of the acreage in each county, as modified to reflect any zones of benefit, as described in Section 12878.9.

(Amended by Stats. 2004, Ch. 230, Sec. 35. Effective August 16, 2004.)

12878.34.

The department shall certify to the auditor and board of supervisors of each county in which each maintenance area, or part thereof, lies, the amount required, in order to pay the estimate for the ensuing fiscal year or the current fiscal year where no assessment has been levied or collected for the current fiscal year, to be levied in each area, and if the area is divided into zones, the amount required to be levied for such purposes in each zone.

(Added by Stats. 1957, Ch. 1800.)

12878.35.

The board of supervisors of each county in which there lies a maintenance area or any portion thereof shall annually, and at the time of levying county taxes, levy on the land within the county and within the area, or if zones are established, within each zone, an ad valorem assessment sufficient to raise the amount or amounts certified by the department.

(Added by Stats. 1957, Ch. 1800.)

12878.36.

Each assessment shall be identified by the name and number, if any, of the area, and by the number of the zone, if a zone is involved.

(Added by Stats. 1957, Ch. 1800.)

12878.37.

The board of supervisors shall determine a rate of assessment sufficient to cover the amount of the estimate for each area or zone, making reasonable allowance for anticipated delinquencies. If a fraction of a cent occurs in a valuation of one

hundred dollars (\$100), it shall be taken as a full cent. The assessment shall be computed and entered upon the assessment roll by the auditor.

(Added by Stats. 1957, Ch. 1800.)

12878.38.

Assessments levied pursuant to this article shall be collected at the same time and in the same manner as county taxes. So far as applicable, all provisions of law relating to the equalization, levy, payment, and collection of county taxes shall apply to such assessments and all provisions of law relating to the duties of county officers in relation to county taxes shall apply to such assessments, except as otherwise expressly provided by this chapter, so far as the same are or may be made applicable.

(Added by Stats. 1957, Ch. 1800.)

12878.39.

All money raised by such assessments shall be accounted for separately as to each area and zone. All such money shall be transmitted by January 1st and July 1st of each year to the department for deposit in the Water Resources Revolving Fund after deduction of the amounts to be retained by the county for the reasonable costs of its services as determined pursuant to subdivision (e) of Section 12878.40.

(Amended by Stats. 1982, Ch. 759, Sec. 3. Effective September 8, 1982.)

12878.40.

(a) The Legislature hereby finds and declares that a county may face substantial expense in maintaining a roll or system which reflects both current values of property for purposes of ad valorem benefit assessments as well as the property values for general taxation mandated by Article XIII A of the California Constitution. The Legislature further finds and declares that a fair and proper benefit assessment for flood control purposes may be levied on the alternative basis of the use to which the benefited land in a maintenance area may be put.

(b) The board of supervisors of the county may evaluate the costs of maintaining a system to determine benefits according to assessed valuation of land and improvements thereon pursuant to Section 12878.35. If the board of supervisors finds that these costs would be excessive relative to the amounts to be collected, it may, in lieu of an ad valorem benefit assessment, elect to levy a benefit

assessment as set forth in this section sufficient to raise the amount or amounts certified by the department. Amounts raised pursuant to this section for transmittal to the department shall be in lieu of any apportionment of county property tax revenues to the support of the maintenance area pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. The assessment authorized to be levied on each parcel under this section shall be based upon the parcel’s proportionate benefit, expressed as a product of the degree of flood protection it receives, its size, and its capacity for being put to use, with respect to all other parcels in the maintenance area. Specifically, a parcel’s benefit product equals the percentage benefit for the zone in which the parcel is located, as defined in Section 12878.9, multiplied by the acreage of the parcel, multiplied by the parcel’s land use factor as specified in subdivision (c). Any parcel less than one-third acre in size shall be deemed to be one-third acre. For any parcel categorized as agriculture in subdivision (c), every acre over five acres shall be deemed to be one-tenth acre.

(c) The county shall assign each parcel to one of the following land use categories, representing its current predominant land use capability, and shall assign to each parcel the land use factor corresponding to such category:

Category	Factor
(1) Waste or unusable land	0
(2) Agriculture	1
(3) Single family, residential	5
(4) Commercial, industrial, and other	10

Prior to April 1 of any year, landowners in the maintenance area may petition the board of supervisors, or the board of supervisors may on its own motion elect, to review the land use categories and land use factors herein provided. The petition shall be signed by at least 50 landowners or 10 percent of the landowners in the maintenance area, whichever is less. The board of supervisors shall thereupon give notice, pursuant to Section 6066 of the Government Code, and hold a hearing to determine whether the land use categories should be modified or increased in number and whether the land use factors should be modified. The board of supervisors may, by resolution, modify the categories and factors as in its judgment is required for fair and practical special benefit assessments for flood control maintenance. The board of supervisors may delegate to an appropriate county board or administrative body the powers and duties set forth in this subdivision.

(d) The amount assessed each parcel in the maintenance area shall be determined by the following formula: the benefit product of the parcel multiplied

by the total amount to be collected in the maintenance area, divided by the sum of the various benefit products of all parcels in the maintenance area.

(e) If the county board of supervisors elects to use the benefit assessment procedure and formula provided in this section, the county may recover the reasonable costs of its services in preparing and levying the assessments. The board of supervisors shall add the amount for estimated county costs to the amount or amounts certified by the department and shall include that amount in the benefit assessment levied pursuant to this section.

(f) All other provisions of this chapter applicable to the levy of assessments shall apply to this section so far as they are or may be made applicable.

(Added by Stats. 1982, Ch. 759, Sec. 4. Effective September 8, 1982.)

RTICLE 5. Administration of Maintenance Area Funds [12878.41 - 12878.45]

(Article 5 added by Stats. 1957, Ch. 1800.)

12878.41.

All money deposited in the Water Resources Revolving Fund pursuant to Section 12878.39, and all money transferred to the Water Resources Revolving Fund from the Flood Control Project Maintenance Revolving Fund, or appropriated for flood project maintenance under this chapter, is appropriated for the purposes of this chapter without regard to fiscal years and shall not be subject to the provisions of Section 16304 of the Government Code.

(Added by Stats. 1957, Ch. 1800.)

12878.42.

The department shall keep a separate account for each maintenance area as to money deposited under Section 12878.39 and expenditures under this chapter in such area. The money in such accounts shall be available to the department for expenditure for the operation and maintenance of the unit for which the maintenance area was formed and from which the money in the account was derived.

(Added by Stats. 1957, Ch. 1800.)

12878.43.

The department shall keep a separate account for money appropriated for the purposes of this chapter from the General Fund. The money in this account shall be available to the department for expenditure for the maintenance and operation of any unit for which a maintenance area is formed to the extent there is no money, or insufficient money, available under Section 12878.42. All money so expended shall be repaid from any money subsequently deposited by the benefited maintenance area.

(Added by Stats. 1957, Ch. 1800.)

12878.44.

Money expended upon any unit during any fiscal year shall not exceed by more than 20 percent the amount of the estimate for that unit for that fiscal year, unless the department determines that expenditures that exceed that amount are necessary for emergency repairs or flood fighting. If in any fiscal year more money will be expended upon a unit than is, or will be, available from assessments or collections thereon derived from the maintenance area, the estimated amount of the deficit shall be added to the estimate for that unit for the following fiscal years, and if less money will be expended than collected, the estimated amount of that excess shall be deducted from the estimate.

(Amended by Stats. 2004, Ch. 230, Sec. 36. Effective August 16, 2004.)

12878.45.

The State Controller shall have no responsibility for verifying the correctness of the claim as to the account upon which it is drawn, and the State Controller shall keep no separate accounts for the maintenance areas under this chapter within the Water Resources Revolving Fund.

(Added by Stats. 1957, Ch. 1800.)