

Chapter 85.08 RCW

DIKING, DRAINAGE, AND SEWERAGE IMPROVEMENT DISTRICTS

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NOTES:

Reviser's note: Chapter **85.08** RCW is almost entirely composed of chapter 176, Laws of 1913, the basic drainage improvement district act, as it has been amended and added to by subsequent legislation. Chapter 130, Laws of 1917 and chapter 157, Laws of 1921 are primarily express amendments to such basic act, however, also contained in such acts were several sections not expressly amendatory of the basic act but which are in pari materia therewith; therefore, such other sections are also codified in this chapter. Further, RCW **85.08.820** contains an independent session law which is in pari materia and so closely connected with the subject matter of this chapter that it has been codified herein. Thus, throughout chapter **85.08** RCW the term "this act" has been translated to read "this

chapter" unless because of peculiar circumstances other treatment is required in which case it is specially noted.

Repeal and saving (1913 c 176 § 39): "Sec. 39. Chapter LXVI of the Laws of 1901 is hereby repealed, saving and excepting, however, that the provisions of said act shall continue in force and effect and shall be applicable to and shall govern all proceedings, rights and powers, in the case of ditches already contracted for, or under construction under said act, and in the case of the maintenance of the same for the current year 1913; and the method of supervision, construction, payment for the work, apportionment of costs, and assessment and collection thereof, delinquency and foreclosing thereof and penalties therefor, and all other proceedings in regard to the same, shall be as in said chapter LXVI of Laws of 1901 prescribed: PROVIDED, HOWEVER, That with the consent of the holders of warrants heretofore issued or hereafter issued for work already begun or contracted for under said act, or with the consent of the contractor engaged in constructing any ditch or drainage system under said act, the provisions of this act in regard to the funding of such warrants with bonds, or the payment for work with bonds and the issuance and sale thereof, and all provisions in regard to such issuing of bonds, shall be applicable to such outstanding warrants or work already begun or contracts let for work. And in such event and to the extent of the costs so acquiesced in by warrant holders or contractors, all the provisions of this act in regard to the method of payment, form, issuing and sale, of bonds and warrants, extension of the assessment over a term of years, collecting, delinquency, interest and foreclosure of the assessments, and all other proceedings in regard thereto shall be as in this act provided. In such event the county commissioners shall prescribe the method and time of payment of the assessments and whether bonds shall be issued and perform any other proper act in regard to the same, at a special meeting called for that purpose, or at the hearing on the apportionment of costs provided for in section 30 hereof.

PROVIDED, ALSO, That in case any of the provisions of this act shall be applied to any proceedings in regard to any ditch begun under said chapter LXVI of the Laws of 1901 and the same shall be held not to be legally applicable thereto by a court of competent jurisdiction, then appropriate and proper proceedings for the performance of said acts or duties shall be had and done in regard thereto, as in said chapter LXVI of the Laws of 1901 provided. And from the time any such drainage district organized and existing under the provisions of said chapter LXVI of the Laws of 1901, shall be brought under the provisions of this act, said district shall be known and designated in all proceedings and records relating thereto, as Drainage Improvement District No. of County, retaining its original serial number.

Nothing in this act contained shall be construed as in anywise modifying or repealing any of the provisions of chapter CXV of the Laws of 1895, or the acts amendatory thereof or supplemental thereto, or affecting any proceeding heretofore or that may hereafter be had under the provisions of said act."

Applicability of prior laws (1913 c 176 § 40): "Sec. 40. Except as specified in the foregoing section, all of the provisions of this act, instead of said chapter LXVI of the Laws of 1901, shall be applicable to and shall govern and be the law in all respects, in regard to all ditches and drainage systems now existing, initiated or applied for under said chapter LXVI of the Laws of 1901, and all powers hereby vested in or granted to all boards and officers under this act shall be vested in such boards and officers that shall hereafter have charge of the work, or administering of the affairs of such ditches and drainage systems, and the districts in which they lie."

Severability (1913 c 176 § 41): "Sec. 41. An adjudication that any section, paragraph, or portion of this act, or any provision thereof, or proceeding provided for therein, is unconstitutional or invalid shall not affect or determine the constitutionality, or validity, of this act as a whole or of any other portion or provisions thereof, and all provisions of this act not adjudicated to be unconstitutional shall be

and remain in full force and effect and shall be operative until specifically adjudicated to be unconstitutional or invalid."

Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

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

Special district creation and operation: Chapter 85.38 RCW.

85.08.010

Definitions.

"System", "improvement", and "system of improvement", as used in this chapter, shall be held to include a dike, ditch, drain or watercourse, or sewer, and any side, lateral, spur or branch dike, ditch, drain or watercourse, or sewer, or other structure, necessary to secure the object of the improvement. Any number of dikes, ditches, drains or watercourses, or sewers, with their laterals, spurs, and branches with separate outlets, or in the case of sewers with one or more septic tanks, may constitute one system for the protection or reclamation of the land included in any district. But no system shall be established or constructed unless sufficient outlet or outlets, or in the case of sewers, sufficient septic tank or tanks, are provided for any drainage or sewerage of such district. Such outlet or outlets, or septic tank or tanks, may be either within or without the boundaries of the improvement district hereinafter provided for. Any natural watercourse may be improved in accordance with the provisions of this chapter.

"Damages", as used in this chapter, shall be held to include the value of the property taken and injury to property not taken, or either, as the case may be. "Property benefited" and "property damaged", as used in this chapter, shall be held to include land, platted or unplatted, whether subject to or exempt from general taxation, and roads other than public roads. "Public roads", as used in this chapter, shall be held to include state and county roads, streets, alleys and other public places; and "other roads", as used in this chapter shall be held to include railroads, street railroads, interurban railroads, logging roads, tramways and private roads and the right-of-way, roadbeds and tracks thereof.

"Public utilities", as used in this chapter, shall be held to include irrigation, power and other canals, flumes, conduits and ditches, telegraph, telephone and electric transmission and pole lines, and oil, gas and other pipe lines. "County engineer", as used in this chapter, shall be held to include any engineer specially employed by the board of county commissioners or the board of supervisors to report upon and prepare plans for or to superintend the construction of a system or the maintenance thereof under the provisions of this chapter. "Prosecuting attorney", as used in this chapter, shall be held to include any attorney specially employed by the board of county commissioners in connection with the carrying out of the provisions of this chapter to advise or carry on proceedings in court with reference to a system of improvement initiated and constructed under the provisions of this chapter.

[1923 c 46 § 2; 1917 c 130 § 13; 1913 c 176 § 2; RRS § 4406. FORMER PART OF SECTION: 1925 ex.s. c 189 § 1, part, now codified as RCW 85.08.230.]

NOTES:

Reviser's note: The term "county engineer" is defined in the last paragraph of this section. Throughout this chapter the terms "engineer," "district engineer," and "county engineer" appear to have been used interchangeably in the session laws and the usage of the latest session law language has been retained herein.

Inapplicability of prior laws (1917 c 130 § 39): "Sec. 39. Nothing in this act contained shall be construed as in anywise modifying or repealing any of the provisions of chapter 115 or of chapter 117 of the Laws of 1895, or the acts amendatory thereof or supplemental thereto, or affecting any proceedings heretofore or that may hereafter be had under the provisions of said acts."

County road engineer: Chapter 36.80 RCW.

85.08.015

Certain powers and rights governed by chapter 85.38 RCW.

Diking, drainage, or sewerage improvement districts shall possess the authority and shall be created, district voting rights shall be determined, and district elections shall be held as provided in chapter 85.38 RCW.

[1985 c 396 § 33.]

NOTES:

85.08.025

Voting rights.

Each qualified voter of a diking improvement or drainage improvement district who owns more than ten acres of land within the district shall be entitled to two additional votes for each ten acres or major fraction thereof located within the district, up to a maximum total of forty votes for any voter, or in the case of community property, a maximum total of twenty votes per member of the marital community: PROVIDED, That this additional voting provision shall only apply in districts that were not in operation and did not have improvements as of May 14, 1925.

[1991 c 349 § 3; 1985 c 396 § 21. Formerly RCW 85.05.015.]

NOTES:

85.08.190

Eminent domain—Consolidation of actions.

For the purpose of taking or damaging property for the purposes of this chapter, counties shall have and exercise the power of eminent domain in behalf of the proposed improvement district, and the mode of procedure therefor shall be as provided by law for the condemnation of lands by counties for public highways: PROVIDED, That the county, at its option, pursuant to resolution to that end duly passed by the board of county commissioners, may unite in a single action, proceedings for the acquisition and condemnation of different tracts of land required for rights-of-way which are held by

separate owners. The court may, on motion of any party, consolidate into a single action separate suits for the condemnation of different tracts of land held by separate owners whenever from motives of economy or the expediting of business it appears advisable to do so. In such cases the jury shall render separate verdicts for the different tracts of land.

[[1917 c 130 § 21](#); [1913 c 176 § 13](#); RRS § 4418.]

85.08.200

Verdict to fix damages and benefits—Judgment.

The jury in such condemnation proceedings shall find and return a verdict for the amount of damages sustained: PROVIDED, That the jury, in determining the amount of damages, shall take into consideration the benefits, if any, that will accrue to the property damaged by reason of the proposed improvement, and shall make special findings in the verdict of the gross amount of damages to be sustained and the gross amount of benefits that will accrue. If it shall appear by the verdict of the jury that the gross damages exceed the gross benefits, judgment shall be entered against the county, and in favor of the owner or owners of the property damaged, in the amount of the excess of damages over the benefits, and for the costs of the proceedings, and upon payment of the judgment into the registry of the court for the owner or owners, a decree of appropriation shall be entered, vesting the title to the property appropriated in the county for the benefit of the improvement district. If it shall appear by the verdict that the gross benefits as found by the jury equal or exceed the gross damages, judgment shall be entered against the county and in favor of the owner or owners for the costs only, and upon payment of the judgment for costs a decree of appropriation shall be entered, vesting the title to the property appropriated in the county for the benefit of the improvement district. The verdict and findings of the jury as to damages and benefits shall be binding upon the board appointed to apportion the cost of the improvement upon the property benefited as hereinafter provided.

[[1913 c 176 § 14](#); RRS § 4419.]

85.08.210

Warrant for damages.

Upon the entry of judgment as provided in RCW [85.08.200](#), the county auditor shall, under the direction of the county legislative authority, draw a warrant upon the county treasurer for the payment of the amount of damages agreed to or the amount of the judgment, as the case may be, to be paid out of the current expense fund of the county.

[[1986 c 278 § 31](#); [1913 c 176 § 15](#); RRS § 4420.]

NOTES:

Severability—1986 c 278: See note following RCW [36.01.010](#).

85.08.220

Construction to be directed, when.

When the board of county commissioners shall have finally determined and fixed the route and plans for the proposed system of improvement and the boundaries of the improvement district, and when it shall appear that the damages for property to be taken or damaged have been settled in the manner hereinabove provided, or when it shall appear that such damages have been settled as to a particular portion of the proposed improvement, and that construction of such portion of such proposed improvement is feasible, thereupon such system of improvement or such portion thereof, as the case may be, shall be constructed in the manner hereinafter provided.

[**1917 c 130 § 22**; **1913 c 176 § 16**; RRS § 4421.]

85.08.230

Levy for preliminary expenses—Collection—"Preliminary expenses" defined.

Whenever the board of county commissioners has passed a resolution establishing a district, the county commissioners may at their meeting on the first Monday in October next ensuing and at the same time in each year thereafter until the improvement has been completed and a statement of total costs has been filed, levy an assessment against the property within the district to defray the preliminary expenses of the district, the levy to be based upon the estimated benefits as shown by the report of the county engineer on file in the auditor's office. The assessment so made shall be considered and credited to the respective pieces of property by the board of appraisers and by the county commissioners at the hearing on the assessment roll and the final apportionment. The preliminary assessments herein provided for shall be levied and collected in the same manner as the final assessment and shall be credited to the construction fund and used for the redemption of warrants issued against the same. Preliminary expenses shall mean all of the expenses incurred in the proceedings for the organization of the district and in other ways prior to the beginning of the actual construction of the improvement.

[**1925 ex.s. c 189 § 1**; RRS § 4421-1. Formerly RCW **85.08.010**, part and **85.08.230**.]

85.08.285

Special assessment bonds.

Special assessment bonds and notes shall be issued and sold in accordance with chapter **85.38** RCW.

[**1986 c 278 § 25**.]

NOTES:

Severability—1986 c 278: See note following RCW **36.01.010**.

85.08.300

Supervisors—Election—Duties.

The board of supervisors of the district shall consist of three elected supervisors. The initial supervisors shall be appointed, and the first elected supervisor elected, as provided in chapter **85.38** RCW. The board of supervisors shall have charge of the construction and maintenance of the systems of improvements, subject to the limitations hereinafter set forth, and may employ a superintendent of construction and maintenance who may be one of the two elected supervisors. The supervisors may be employed upon the construction or maintenance, receiving the same compensation as other labor of like character.

When a district contains not more than five hundred acres, or when a petition is presented to the county legislative authority signed by the owners of fifty percent of the acreage of the district praying for such action, the county engineer shall act as the sole supervisor of the district; and in such case the allowance of all claims against the district shall be by the county legislative authority.

[**1985 c 396 § 45; 1965 c 120 § 1; 1955 c 338 § 1; 1921 c 157 § 4; 1917 c 130 § 26; 1913 c 176 § 20; RRS § 4425.**]

NOTES:

85.08.305

Supervisors—Terms of office—County engineer to act as supervisor.

The county engineer shall continue to act as a supervisor of a diking, drainage, or sewerage improvement district that is governed by a three-member board of supervisors until a replacement assumes office after being elected at the 1987 special district general election. At that election two supervisors shall be elected, with the person receiving the greatest number of votes being elected to a six-year term, and the person receiving the second greatest number of votes being elected to a four-year term. Thereafter, all supervisors shall be elected to six-year terms.

[**1985 c 396 § 23.**]

NOTES:

85.08.310

Construction of improvements—Contracts with United States.

The said board of supervisors shall, immediately upon their election and qualification, begin the construction of such system of improvement and shall proceed with the construction thereof in accordance with the plans adopted therefor. In the construction of any system of drainage, construction shall be begun at the outlet or outlets thereof and at such other points as may be deemed advisable from time to time. In the construction of any system of improvement the board of supervisors with the approval of the board of county commissioners may modify, curtail, enlarge or add to the original plans wherever the same may be found necessary or advisable in the course of actual construction. But such changes

shall not in the aggregate increase the estimated cost of the entire system by more than one-fifth, and all additional or different rights-of-way required shall be obtained as hereinbefore prescribed. The board of county commissioners may in its discretion let the construction of said system or any portion thereof by contract, in the manner provided for letting contracts for the construction of county roads and bridges. The board of county commissioners may, upon such terms as may be agreed upon by the United States acting in pursuance of the National Reclamation Act approved June 17, 1902 (32 Statutes at Large 388), and the acts amendatory thereof and supplemental thereto, or in pursuance to any other act of congress appropriate to the purpose, contract for the construction of the system of improvement or any part thereof, by the United States, or in cooperation with the United States therein. In such case, no bond shall be required, and the work shall be done under the supervision and control of the proper officers of the United States.

Unless the work of construction is let by contract as hereinbefore provided, or for such part of such work as is not covered by contract, the board of supervisors shall employ such number of persons as shall be necessary to successfully carry on the work of such construction, and shall give preference in such employment to persons owning land to be benefited by the improvement.

The provisions of this section shall not be construed as denying to the supervisors, in case the construction work is left in their hands, the power to enter into an agreement with any contractor to furnish labor, material, equipment and skilled supervision, the contractor to be compensated upon the basis of a specific sum, or upon a percentage of the cost of the work, the services of the contractor to cover the use of equipment and the value of skilled supervision: PROVIDED, HOWEVER, That there is retained in the said board by the contract the right of termination thereof at any time, on reasonable notice, and fixing in the said contract, or reserving in said board, the right to fix the rates of wages to be paid to the persons employed in said work. The board of supervisors may also let contracts in such manner and on such notice as they deem advisable for items of construction not exceeding one thousand dollars in amount of expenditures.

[2009 c 549 § 1035; 1921 c 157 § 5; 1917 c 130 § 27; 1913 c 176 § 22; RRS § 4427.]

85.08.320

Compensation and expenses of officers and employees—Costs paid by voucher, payroll, or warrant.

The compensation of the superintendent of construction, the board of appraisers hereinafter provided for, and any special engineer, attorney or agent employed by the district in connection with the improvement, the maximum wages to be paid, and the maximum price of materials to be used, shall be fixed by the district board of supervisors. Members of the board of supervisors may receive compensation up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the district, or in performance of other official services or duties on behalf of the district: PROVIDED, That such compensation shall not exceed eight thousand six hundred forty dollars in one calendar year. Each supervisor shall be entitled to reimbursement for reasonable expenses actually incurred in connection with business, including subsistence and lodging while away from the supervisor's place of residence and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW. All costs of construction or maintenance done under the direction of the board of supervisors shall be paid upon vouchers or payrolls verified by two of the said supervisors. All costs of construction and all other expenses, fees and charges on account of such improvement shall be paid by warrants drawn by the county auditor upon the county treasurer upon the proper fund, and shall draw interest at a rate determined by the county legislative authority until paid or called by the county treasurer as warrants of the county are called.

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

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

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

[2007 c 469 § 10; 1998 c 121 § 10; 1991 c 349 § 22; 1986 c 278 § 32; 1985 c 396 § 46; 1981 c 156 § 23; 1917 c 130 § 28; 1913 c 176 § 23; RRS § 4428. Formerly RCW 85.08.320 and 85.08.330.]

NOTES:

Severability—1986 c 278: See note following RCW 36.01.010.

85.08.340

Crossing roads or public utilities—Procedure—Costs.

Whenever in the progress of the construction of the system of improvement it shall become necessary to construct a portion of such system across any public or other road or public utility, the board of supervisors, or in case the work is being done by contract the board of county commissioners, shall serve notice in writing upon the public officers, corporation, or person having charge of, or controlling or owning such road or public utility, as the case may be, of the present necessity of such crossing, giving the location, kind, dimensions, and requirement thereof, for the purpose of the system of improvement, and stating a reasonable time, to be fixed by the county engineer, 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 county engineer for approval duplicate detailed plans and specifications for such crossing. Upon submission of such plans, the county engineer shall examine and may modify the same to meet the requirements of the system of improvement, and when such plans or modified plans are satisfactory to the county engineer, he or she shall approve the same and return one thereof to the public officers, corporation, or person submitting the same, and file the duplicate in his or her office, and shall notify such public officers, corporation, or person of the time within which said crossing must be

constructed. Upon the return of such approved plans, the public officers, corporation, or person controlling such road or public utility shall, within the time fixed by the county engineer, construct such crossing in accordance with the approved plans, and shall thereafter maintain the same. In case such public officers, 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 board of supervisors or of county commissioners, as the case may be, shall proceed with the construction of such crossing in such manner as will cause no unnecessary injury to or interference with such road or public utility. The cost of construction and maintenance of only such crossings or such portion of such cost as would not have been necessary but for the construction of the system of improvement shall be a proper charge against the improvement district, and only so much of such cost as the board of county commissioners shall deem reasonable shall be allowed as a charge against the district in the case of crossings constructed by others than the district. The amount of costs of construction allowed as a charge against the district by the board of county commissioners shall be credited on the assessments against the property on which the crossing is constructed, and any excess over such assessment shall be paid out of the funds of the district.

[**2013 c 23 § 408; 1917 c 130 § 29; 1913 c 176 § 24**; RRS § 4429. Formerly RCW **85.08.340** and **85.08.350**.]

85.08.360

Total costs—Apportionment—Board of appraisers.

When the improvement is fully completed and accepted by the county engineer, the clerk of the board shall compile and file with the board of county commissioners an itemized statement of the total cost of construction, including engineering and election expenses, the cost of publishing and posting notices, damages, and costs allowed or awarded for property taken or damaged, including compensation of attorneys, including the costs of crossings constructed by the district and the cost of crossings constructed by others and allowed by the board of county commissioners, and including the sum paid or to be paid to the United States, and the discount, if any, on the bonds and warrants sold and including all other costs and expenses, including fees, per diem, and necessary expenses of nonsalaried officers incurred in connection with the improvement, together with interest on such costs and expenses from the time when incurred at the rate of interest borne by the warrants issued for the cost of construction. There shall also be included in said statement, in case the county engineer is a salaried officer, a statement of the services performed by him or her in connection with said improvement at a per diem of five dollars per day and his or her necessary expenses, and a reasonable sum to be fixed by the board of county commissioners on account of the services rendered by the prosecuting attorney. Upon the filing of such statement of costs and expenses the board of county commissioners shall revise and correct the same if necessary and add thereto a reasonable sum which shall be not less than five percent nor more than ten percent of the total thereof in drainage improvement districts, and not less than ten percent nor more than fifteen percent of the total thereof in diking improvement districts, to cover possible errors in the statement or the apportionment hereinafter provided for, and the cost of such apportionment and other subsequent expenses, and interest on the costs of construction from the date of the statement until fifty days after the filing of the assessment roll with the treasurer; and unless the same have been previously appointed, shall appoint a board of appraisers consisting of the county engineer and two other competent persons, to apportion the grand total as contained in said statement as hereinafter provided. Each member of said board of appraisers shall take, subscribe, and file with the board of county commissioners an oath to faithfully and impartially perform his or her duties to the best of his or her ability in making said apportionment, and said board of appraisers shall proceed to carefully examine the system and the public and private property within the district and fairly, justly, and equitably apportion the

grand total cost of the improvement against the property and the county or counties, cities, and towns within the district, in proportion to the benefits accruing thereto.

[2013 c 23 § 409; 1917 c 130 § 30; 1913 c 176 § 25; RRS § 4430.]

85.08.370

Benefits to public roads, sewer systems—Apportionment of cost against city, county and state.

Whenever any system of improvement constructed under the provisions of this chapter will drain, protect or otherwise improve the whole or any part of any public road, roadbed or track thereof, or where any such system of improvement will furnish an outlet for or facilitate the construction or maintenance of any sewer system in any city or town, there shall be apportioned against the state, in the case of state primary and secondary highways, and against the county in which any other such state or county road outside of any incorporated city or town is located, or against the city or town in which any such public road is located, or against any such other road or part thereof so drained, protected or otherwise improved, or against the city or town for which an outlet for sewage will be furnished or wherein the construction or maintenance of a sewer system will be facilitated, the proper amount of the total sum to be apportioned. The board of county commissioners may pay such portion as they deem proper of the amount assessed against the county on account of the drainage, protection or improvement of the roads, out of the funds of the road district in which such drainage, protection or improvement is made. The amount assessed against the state shall be paid out of the appropriate fund of the state.

[1923 c 46 § 8; 1917 c 130 § 31; 1913 c 176 § 26; RRS § 4431. FORMER PART OF SECTION: 1913 c 176 § 28 now codified as RCW 85.08.375.]

85.08.375

Benefits to state lands—Apportionment of costs.

There shall be apportioned against all state school, granted, and other lands, in the district the proper amount of the total sum to be apportioned in proportion to the benefits accruing thereto.

[1913 c 176 § 28; RRS § 4433. Formerly RCW 85.08.370, part.]

85.08.380

Benefits to and protection from irrigation system.

In the plans for and in the construction of a drainage system in an irrigated region, under the provisions of this chapter, provision may be made for the prevention of, or affording an outlet for drains to prevent, injury to land from seepage of or saturation by irrigation water, and for the carrying off of necessary waste water from irrigation, and benefits resulting from such provision shall be considered in making the apportionment of the cost of such system.

[1913 c 176 § 27; RRS § 4432. FORMER PART OF SECTION: 1921 c 160 § 3 now codified as RCW 85.08.385.]

85.08.385**Drainage ditches along highway, etc.**

Drainage ditches of any drainage improvement district heretofore or hereafter created may be constructed and maintained along any public highway, street, alley or road within the limits of any drainage district.

[**1921 c 160 § 3**; RRS § 4409. Formerly RCW **85.08.380**, part.]

85.08.390**Schedule of property and benefits—Filing.**

Upon the completion of the apportionment the board of appraisers shall prepare upon suitable blanks, to be prescribed by the *bureau of inspection and supervision of public offices, sign and file with the clerk of the board of county commissioners a schedule giving the name of each county, city and town and the description of each piece of property found to be benefited by the improvement in the following order: First, counties, cities and towns and the respective amounts apportioned thereto for benefits accruing to public roads and sewer systems therein; second, other roads (1) railroads, (2) street railroads, (3) interurban railroads, (4) logging roads, and (5) tramways, giving the location of the particular portion or portions of each road benefited and the respective amounts apportioned thereto; third, unplatted lands giving a description of each tract arranged in the numerical order of the townships, ranges and sections, and giving the legal subdivisions and such other subdivisions and metes and bounds descriptions as may be necessary to show a different rate of apportionment, or different ownership, and giving the respective amounts apportioned to each tract; fourth, platted lands arranged by cities and towns and platted acreage in alphabetical order, giving under each the names of the plats in alphabetical order and the numbers of blocks and lots, and such other subdivisions and metes and bounds descriptions as may be necessary to show a different rate of apportionment, or different ownership, and giving the respective amounts apportioned to each plat, block, lot, or other description, as the case may be.

[**1913 c 176 § 29**; RRS § 4434.]

NOTES:

***Reviser's note:** The "bureau of inspection and supervision of public offices" has been abolished and its powers and duties transferred and devolved upon the state auditor through the division of municipal corporations by a chain of statutes as follows: 1921 c 7 §§ 55, 135; **1925 c 18 § 11**; and **1927 c 280 § 11**. The division of municipal corporations was repealed by **1995 c 301 § 79**.

85.08.400**Hearing on schedule—Notice—Levy of assessment—State lands.**

Upon the filing of the schedule of apportionment, the county legislative authority shall fix the time and place for a hearing thereon, which time shall be not more than sixty days from the date of the filing of the schedule. Notice of the hearing shall be given in the manner provided for giving notice of a hearing in *RCW 85.08.150. The notice shall fix the time and place of the hearing on the roll, and shall state that the schedule of apportionment showing the amount of the cost of the improvement apportioned to each county, city, town, and piece of property benefited by the improvement is on file in the office of the county legislative authority and is open to public inspection, and shall notify all persons who may desire to object thereto that they may make their objections in writing and file them with the clerk of the county legislative authority at or before the date fixed for the hearing. The notice shall also state that at the time and place fixed and at such other times and places as the hearing may be continued to, the county legislative authority will sit as a board of equalization for the purpose of considering the schedule and at the hearing or hearings will also consider any objections made thereto, or any part thereof, and will correct, revise, raise, lower, change, or modify the schedule or any part thereof, or set aside the schedule and order that the apportionment be made de novo as to such body shall appear just and equitable, and that at the hearing the board will confirm the schedule as finally approved by them and will levy an assessment against the property described thereon for the amounts as fixed by them. The county legislative authority shall serve by mail, at least ten days before the hearing, upon the commissioner of public lands of the state of Washington a like notice, in duplicate, showing the amount of the cost of the improvements apportioned against all state, school, granted, or other lands owned by the state of Washington in the district. The county legislative authority shall serve a like notice upon the state secretary of transportation showing the amount apportioned against any state primary or secondary highways. Upon receipt of the notice the commissioner of public lands or the secretary of transportation, as the case may be, shall endorse thereon a statement either that he or she elects to accept or that he or she elects to contest the apportionment, and shall return the notice, so endorsed, to the county legislative authority. At or before the hearing any person interested may file with the clerk of the county legislative authority written objections to any item or items of the apportionment.

[2013 c 23 § 410; 1984 c 7 § 377; 1923 c 46 § 9, part; 1917 c 130 § 32; 1913 c 176 § 30; RRS § 4435-1.]

NOTES:

Reviser's note: *(1) RCW 85.08.150 was repealed by 1985 c 396 § 87. See RCW 85.38.040, 85.38.050.

(2) The powers and duties of the commissioner of public lands have been transferred to the department of natural resources. See 1957 c 38 §§ 1, 13; RCW 43.30.010, 43.30.411.

85.08.410

Schedule approved or modified—Maintenance assessment.

At such hearing, which may be adjourned from time to time and from place to place, until finally completed, the board of county commissioners shall carefully examine and consider said schedule and any objections filed or made thereto and shall correct, revise, raise, lower, change, or modify such schedule or any part thereof, or strike therefrom any property not benefited, or set aside such schedule and order that such apportionment be made de novo, as to such body shall appear equitable and just. The board shall cause the clerk of the board to enter on such schedule all such additions, cancellations, changes, modifications, and reapportionments, all credits for damages allowed or awarded to the owner of any piece of property benefited, but not paid, as provided in RCW 85.08.200; also a credit in favor of

the county on any apportionment against the county, of all sums paid on account of said improvement, as provided in RCW **85.08.210**; and all sums allowed the county on account of services rendered by the county engineer or prosecuting attorney, as provided in RCW **85.08.360**; and all credits allowed to property owners constructing crossings as provided in RCW **85.08.340**. When the board of county commissioners shall have finally determined that the apportionment as filed or as changed and modified by the board is a fair, just and equitable apportionment, and that the proper credits have been entered thereon, the members of the board approving the same shall sign the schedule and cause the clerk of the board to attest their signature under his or her seal, and shall enter an order on the journal approving the final apportionment and all proceedings leading thereto and in connection therewith, and shall levy the amounts so apportioned against the property benefited, and the determination by the board of county commissioners in fixing and approving such apportionment and making such levy shall be final and conclusive.

The board of county commissioners shall also at said hearing, levy, in the manner hereinafter provided for the levy of maintenance assessments, such assessment as they shall deem necessary to provide funds for the maintenance of the system of improvement until the first annual assessment for maintenance shall fall due.

[**2013 c 23 § 411**; **1983 c 3 § 230**; 1923 c 46 § 9, part; **1917 c 130 § 32**; **1913 c 176 § 30**; RRS § 4435-2.]

85.08.420

Assessment roll—Form—Notice—Publication.

Upon the approval of said roll the county auditor shall immediately prepare a completed assessment roll which shall contain, first, a map of the district showing each separate description of property assessed; second, an index of the schedule of apportionments; third, an index of the record of the proceedings had in connection with the improvement; fourth, a copy of the resolution of the board of county commissioners fixing the method of payment of assessments; fifth, the warrant of the auditor authorizing the county treasurer to collect assessments; and sixth, the approved schedule of apportionments of assessments; and shall charge the county treasurer with the total amount of assessment and turn the rollover to the treasurer, for collection in accordance with the resolution of the board of county commissioners fixing the method of payment of assessments. As soon as the assessment roll has been turned over to the treasurer for collection, he or she shall publish a notice in the official newspaper of the county for once a week for at least two consecutive weeks, that the said roll is in his or her hands for collection and that any assessment thereon or any portion of any such assessment may be paid at any time on or before a date stated in such notice, which date shall be thirty days after the date of the first publication, without interest, and the treasurer shall accept such payment as in said notice provided. Upon the expiration of such thirty-day period the county treasurer shall certify to the county auditor the total amount of assessments so collected by him or her and the total amount of assessments remaining unpaid upon said roll.

[**2013 c 23 § 412**; 1923 c 46 § 9, part; **1917 c 130 § 32**; **1913 c 176 § 30**; RRS § 4435-3.]

85.08.430

Payment of assessments—Interest—Lien.

After the expiration of said thirty-day period, payment of assessments in full, with interest to the next interest payment date which is more than thirty days from the date of such payment, may be made

at any time; PROVIDED, That the aggregate amount of such advance payments in any year, together with the total amount of the assessments due at the beginning of said year, shall not exceed the total amount of the bonds which may be called in that year according to the applicable bond redemption schedule. The treasurer shall accept payments of assessments in advance, in the order tendered, until the limit herein set forth has been reached.

The assessments contained in the assessment roll shall bear interest from the expiration of the thirty-day period at a rate determined by the county legislative authority and interest upon the entire assessment then unpaid shall be due and payable at the time each of said installments becomes due and payable as a part thereof.

The assessments contained in said assessment roll shall be liens upon the property assessed, such lien shall be of equal rank with other liens assessed against the property for local improvements and paramount to all other liens except the lien of general taxes, and shall relate back to and take effect as of the date when the county legislative authority determined to proceed with the construction of the improvement as provided in RCW **85.08.220**.

[**1983 c 167 § 195**; **1981 c 156 § 24**; 1923 c 46 § 9, part; **1917 c 130 § 32**; **1913 c 176 § 30**; RRS § 4435-4.]

NOTES:

Liberal construction—Severability—1983 c 167: See RCW **39.46.010** and note following.

85.08.440

Appeal from apportionment—Procedure—Appellate review.

The decision of the board of county commissioners upon any objections made within the time and in the manner prescribed in RCW **85.08.400** through **85.08.430**, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of such board and with the clerk of the superior court of the county in which such drainage or diking improvement district is situated, or in case of joint drainage or diking improvement districts with the clerk of the court of the county in which the greater length of such drainage or diking improvement system lies, within ten days after the order confirming such assessment roll shall have become effective, and such notice shall describe the property and set forth the objections of such appellant to such assessment; and, within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court a transcript consisting of the assessment roll and his or her objections thereto, together with the order confirming such assessment roll, and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners, and by him or her certified to contain full, true, and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court, the appellant shall execute and file with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with good and sufficient surety, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county or the drainage or diking improvement district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require; within three days after such transcript is filed in the

superior court as aforesaid, the appellant shall give written notice to the prosecuting attorney of the county, and to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time (not less than three days from the service thereof) when the appellant will call up the said cause for hearing; and the superior court of said county shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury. The judgment of the court shall confirm, correct, modify, or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, and he or she shall modify and correct such assessment roll in accordance with such decision. Appellate review of the judgment of the superior court may be sought as in other civil cases. However, the review must be sought within fifteen days after the date of the entry of the judgment of such superior court. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

[2013 c 23 § 413; 1988 c 202 § 77; 1971 c 81 § 162; 1921 c 157 § 1; RRS § 4436.]

NOTES:

Rules of court: Cf. RAP 5.2, 8.1, 18.22.

Severability—1988 c 202: See note following RCW 2.24.050.

85.08.450

Regularity and validity of proceedings conclusive.

Whenever any schedule of apportionment of any drainage or diking improvement district shall have been confirmed, and the assessment therefor shall have been levied, by the board of county commissioners, as provided by RCW 85.08.400 through 85.08.430, the regularity, validity and correctness of the proceedings relating to such improvement, and to the assessment therefor, including the action of the board of county commissioners upon such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll in the manner and within the time provided in RCW 85.08.400 through 85.08.430, and not appealing from the action of the board of county commissioners in confirming such assessment roll in the manner and within the time in this chapter provided. No proceeding of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment, or the sale of any property to pay such assessment, or any certificate of delinquency issued therefor, or the foreclosure of any lien issued therefor: PROVIDED, That this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds:

- (1) That the property about to be sold does not appear upon the assessment roll, or
- (2) That said assessment has been paid.

[1921 c 157 § 2; RRS § 4437.]

85.08.460**District liable on judgments—Supplemental levy.**

Any judgment that heretofore has been obtained or that hereafter may be obtained against a county on account of any contract lawfully made by its officials for or on behalf of any drainage, diking, or sewerage improvement district, or on account of the construction or maintenance of any drainage, diking, or sewerage system of a drainage, diking, or sewerage improvement district shall be collected and reimbursed to the county from said improvement district, and the amount of such judgment shall be included in the construction costs of said district: PROVIDED, That if such judgment be recovered after the assessment to pay the construction costs shall have been levied, then the county commissioners are hereby empowered and they shall make a supplemental levy upon the lands of the district, and from the funds collected under such levy said reimbursements shall be made.

[1923 c 46 § 10; 1921 c 157 § 3; RRS § 4438.]

85.08.470**District funds.**

There shall be established in the county treasury of any county in which any drainage or diking or sewerage improvement is established under the provisions of this chapter, appropriate funds as follows:

(1) The construction fund, into which shall be paid the proceeds of all bonds or warrants sold and the proceeds of all assessments paid prior to the sale of bonds or warrants. In case no bonds have been issued or warrants have been sold, the proceeds of all assessments levied to pay the cost of construction shall be paid into such fund. All warrants including temporary warrants, issued in payment of cost of construction shall be paid out of such fund.

(2) A fund for the redemption of all bonds issued or warrants sold, to be known as the redemption fund, into which shall be paid all proceeds derived from assessments levied to pay cost of construction which shall not have been paid prior to the sale of bonds or warrants, in case bonds have been issued or warrants sold, and also all moneys, if any, remaining in the construction fund after the payment of all warrants drawn against it as above provided. The redemption fund shall be applied, first, to the payment of the interest due upon all such outstanding bonds issued or warrants sold and, second, to the payment of the principal thereof. After the payment of the principal and interest of all such bonds or warrants, the balance, if any, remaining in such fund shall be applied to the payment of any warrants outstanding, including temporary warrants, which may have been issued in payment of cost of construction which for any reason may remain unpaid. Any balance, if any, thereafter remaining shall be paid into the maintenance fund.

(3) The maintenance fund, into which shall be paid the proceeds of all assessments for maintenance, and all other funds received by the district which are not required by the provisions of this chapter to be paid into the construction fund or the redemption fund.

[1923 c 46 § 11, part; 1917 c 130 § 33; 1913 c 176 § 31; RRS § 4439-1.]

85.08.480**Collection of assessments—Certificates of delinquency—Foreclosure.**

The respective installments of assessments for construction or maintenance of improvements made under the provisions of this chapter, shall be collected in the same manner and shall become delinquent at the same time as general taxes, certificates of delinquency shall be issued, and the lien of

the assessment shall be enforced by foreclosure and sale of the property assessed, as in the case of general taxes, all according to the laws in force on January 1, 1923, except as hereinafter specifically provided.

The annual assessments or installments of assessments, both for construction and for maintenance and repairs of the diking and/or drainage system shall become due in two equal installments, one-half being payable on or before April 30th, and the other half on or before October 31st; and delinquency interest thereon shall run from said dates on said respective halves of said assessments.

The rate of interest thereon after delinquency, also the rate of interest borne by certificates of delinquency, shall be twelve percent per annum. Certificates of delinquency for any assessment or installment thereof shall be issued upon demand and payment of such delinquent assessment and the fee for the same at any time after the expiration of twelve months after the date of delinquency thereof. In case no certificate of delinquency be issued after the expiration of four years from date of delinquency of assessments for construction costs, or after the expiration of two years from date of delinquency of assessments for maintenance or repairs, certificates of delinquency shall be issued to the county, and foreclosure thereof shall forthwith be effected in the manner provided in chapter 84.64 RCW.

The holder of a certificate of delinquency for any drainage, diking or sewerage improvement district or consolidated district assessment or installment thereof may pay any delinquent general taxes upon the property described therein, and may redeem any certificate of delinquency for general taxes against said property and the amount so paid together with interest thereon at the rate provided by law shall be included in the lien of said certificate of delinquency.

The expense of foreclosure proceedings by the county shall be paid by the districts whose liens are foreclosed: Costs of foreclosure by the county or private persons as provided by law, shall be included in the judgment of foreclosure.

[2009 c 350 § 7; 1933 c 125 § 2; 1923 c 46 § 11, part; 1917 c 130 § 33; 1913 c 176 § 31; RRS § 4439-2.]

85.08.490

Title acquired at sale—Foreclosure for general taxes—Lien of assessments preserved.

The purchaser, upon the foreclosure of any certificate of delinquency for any assessment or installment thereof, shall acquire title to such property subject to the installments of the assessment not yet due at the date of the decree of foreclosure, and the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state.

The holder of any certificate of delinquency for general taxes may, before commencing any action to foreclose the lien of such certificate, pay in full all drainage or diking or sewerage improvement district assessments or any installment thereof due and outstanding against the whole or any portion of the property included in such certificate of delinquency and the amount of all assessments so paid together with interest at ten percent per annum thereon shall be included in the amount for which foreclosure may be had; or, if he or she elects to foreclose such certificate without paying such assessments in full, the purchaser at such foreclosure sale shall acquire title to such property subject to all such drainage or diking or sewerage improvement district assessments. Any property in any drainage or diking or sewerage improvement district sold under foreclosure for general taxes shall remain subject to the lien of all drainage and diking or sewerage improvement district assessments or installments thereof not yet due at the time of the decree of foreclosure and the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state.

85.08.500

Resale or lease by county—Disposition of proceeds—Tax statements.

Property subject to a drainage or diking or sewerage improvement district assessment, acquired by a county pursuant to a foreclosure and sale for general taxes, when offered for sale by the county, shall be offered for the amount of the general taxes for which the same was struck off to the county, together with all drainage or diking or sewerage improvement district assessments or installments thereof, due at the time of such resale, including maintenance assessments, and supplemental assessments levied pursuant to the provisions of RCW 85.08.520, coming due while the property was held in the name of the county; and the property shall be sold subject to the lien of all drainage or diking or sewerage improvement district assessments or installments thereof not yet due at the time of such sale, and the notice of sale and deed shall so state. PROVIDED, That the county board may in its discretion, sell said property at a lesser sum than the amount for which the property is offered in the notice of sale. The proceeds of such sale shall be applied first to discharge in full the lien or liens for general taxes for which said property was sold, and the remainder, or such portion thereof as may be necessary, shall be applied toward the discharge of all drainage or diking or sewerage improvement district assessment liens upon such property, and the surplus, if any, shall be applied toward the payment of any delinquent or due local assessments or local assessment installments outstanding against the property levied by any authority other than that of the county, taking them in the order of their maturities, beginning with the earliest; after which if any money remains the treasurer shall hold the same for the person whose interest in the property entitles him or her thereto. If there be no purchaser, the property shall again be offered for sale within one year thereafter, and shall be successively offered for sale each year until a sale thereof be effected.

Property struck off to or bid in by a county may be leased pursuant to resolution of the county commissioners on such terms as the commissioners shall determine for a period ending not later than the time at which such property shall again be offered for sale as required by law. Rentals received under such lease shall be applied in the manner hereinabove provided for the proceeds of sale of such property.

All statements of general state taxes where drainage, diking, or sewer [sewerage] improvement district assessments against the land described therein are due shall include a notation thereon or be accompanied by a statement showing such fact.

85.08.510

Invalid levy—Reassessment.

Whenever any improvement, any extension or betterment thereof shall have been constructed in whole or in part, either heretofore in a district established or attempted to be established under and by virtue of *chapter 66 of the Laws of 1901, or in a district heretofore or hereafter established or attempted to be established under this chapter, and the assessment therefor or any part thereof shall be invalid by reason of any omission, irregularity or defect in any proceeding whatever, a reassessment shall be made upon the property benefited by the improvement to provide a fund for the payment of the costs thereof, and any bonds or warrants issued therefor in the following manner:

The board of county commissioners shall by order cause the clerk of the board to compile and file with the board an itemized statement of the total cost of the improvement in the manner prescribed by

RCW **85.08.360**. Upon the filing of such statement the same proceedings shall be had assessing the costs of said improvement against the lands benefited thereby and the counties, cities and towns within the district, as are prescribed by RCW **85.08.360** and **subsequent sections of this act. In case no bonds have been issued or warrants sold to pay the costs of said improvement, the same may be issued and sold and disposed of as hereinbefore provided. In case an assessment for such improvement shall have been theretofore made or attempted, and any payment has been made thereon, proper credit for the amount of such payment shall be made upon the reassessment.

[1923 c 46 § 11, part; **1917 c 130 § 33**; **1913 c 176 § 31**; RRS § 4439-5.]

NOTES:

Reviser's note: *(1) "chapter 66 of the Laws of 1901" refers to a prior drainage district law which was repealed by the basic act, 1913 c 176, codified in this chapter; see 1913 c 176 §§ 39, 40; see notes following chapter digest.

** (2) The language "subsequent sections of this act" first appears in 1917 c 130 § 33 amending **1913 c 176 § 31**. The 1917 amendatory act was a 39 section act with sections 34 through 39 being codified as RCW **85.08.530**, **85.08.540**, **85.08.560**, and **85.08.680**. Section 34 thereof was repealed by 1949 c 26 § 18 and new subject matter thereof is in chapter **85.16** RCW. Section 39 was a construction section. The basic act in chapter 176, Laws of 1913 was a 42 section act with sections 32 through 41 being codified as RCW **85.08.530**, **85.08.540**, **85.08.560**, **85.08.570**, **85.08.670**, and **85.08.680**. Section 32 was repealed in the 1949 act and the new subject matter is in chapter **85.16** RCW. The other sections being construction sections are footnoted herein following the chapter digest. Notice that this section itself was a single section in the basic act of 1913 but it was divided into separate sections in 1923 c 46 § 11 codified herein as RCW **85.08.470** through **85.08.520**.

85.08.520

Supplemental assessments.

If upon the foreclosure of the assessment upon any property the same shall not sell for enough to pay the assessment against it, or if any property assessed was not subject to assessment, or if any assessment made shall have been eliminated by foreclosure of a tax lien or made void in any other manner, the board of county commissioners shall cause a supplemental assessment to be made on the property benefited by the improvement, including property upon which any assessment shall have been so eliminated or made void, and against the county, cities and towns chargeable therewith in the manner provided for the original assessment, to cover the deficiency so caused in the original assessment.

If by inadvertence or for any cause the assessment levied shall be found to be insufficient to meet the entire cost of construction, a supplemental assessment shall be made by the board of county commissioners upon the lands of the district in the same proportion as the original assessment is levied, same being spread over not to exceed three years as the commissioners may determine.

Duplicate assessments or other errors that may by inadvertence be found to have been incorporated in the assessment roll may be corrected by order of the county commissioners upon same being certified to them by the treasurer and the engineer.

[1923 c 46 § 11, part; **1917 c 130 § 33**; **1913 c 176 § 31**; RRS § 4439-6.]

85.08.530

Levies against county, city or town, how paid.

The amount of the costs of construction or maintenance of any system of improvement assessed against any city, town or county may be met by levies to be paid in similar installments and extending over a like period of time as the assessments against property benefited are spread, or such amounts may be met by the issue and sale of the bonds of such city, town or county in the manner in which bonds to meet general indebtedness of such city, town or county are issued. The proper authorities of such city, town or county shall make the necessary levies to meet such amounts thus apportioned thereto as a general levy on all property therein.

[1917 c 130 § 35; 1913 c 176 § 33; RRS § 4441.]

85.08.540

Abandonment or change in system—Subdistricts.

Upon a petition and bond being filed by one or more landowners, either within or without the boundaries of a district, and like proceedings being had as in the case of the original establishment and construction of a system of improvement, the county commissioners may declare any system of improvement or any part thereof, abandoned or may strike from the district lands no longer benefited or served thereby, or they may cause any system of improvement to be altered, reduced, enlarged, added to or in any other manner bettered or improved, either within or without the district, and to effect such subsequent improvements, may exercise any of the powers which are in this chapter, or may be hereafter conferred upon such districts. But the striking of any lands from a district shall not in any way affect any assessment theretofore levied against such lands. When such improvements shall have been completed the costs thereof shall be apportioned and assessed against the lands benefited thereby in the manner hereinbefore provided for such apportionment and assessment in the case of original proceedings. New lands assessed for any such improvement shall become a part of such district. The construction and maintenance of any such new improvement, unless let by contract by the board of county commissioners, shall be under the direction of the board of supervisors of the district in which they are made or to which said improvement is added. The lands assessed for such new improvements, of less than the entire district, shall be designated, alphabetically, "subdistrict of improvement district No."

[1917 c 130 § 36; 1913 c 176 § 34; RRS § 4442.]

85.08.560

Extension of existing system—Apportionment of cost.

When any extension of or addition to any existing system of improvement shall be thus constructed, the cost thereof shall be assessed to all the property, counties, cities and towns in the enlarged district benefited thereby in proportion to the benefits received therefrom. Any new lands thus brought into the district shall be assessed in addition a proper and equitable share of the then value of the original system of improvement in proportion to the benefits which such new lands derive therefrom. In determining the value to be so assessed the board of appraisers shall take into consideration the amount, if any, which the property to be assessed has already paid toward the construction of the original system and all other matters that may be pertinent. If at any time it shall appear to the board of supervisors of any drainage or diking improvement district that any lands without the boundaries of such

district are being benefited by the improvements of the district and are not being assessed for the benefits received, they shall file a petition with the board of county commissioners praying the benefits received by such lands be determined and an assessment made upon such lands for the benefits so received. Thereupon, the board of county commissioners shall appoint a board of appraisers as provided in RCW **85.08.360** for the apportionment of the cost of construction of the original system of improvement, and an apportionment of the then value of the improvements of the district shall be made to such lands in proportion to the benefits received therefrom as nearly as may be in the manner provided for the apportionment of the cost of the original system of improvement. In determining what share of the value of the improvements of the district shall be apportioned to such lands the board of appraisers shall take into consideration the benefits already received by such lands and all other matters that may be pertinent. The amount of the value of the original system assessed upon any new property brought within the district shall be rebated pro rata upon the assessments, if any, outstanding against the lands of the district on account of the construction of such original system. If the assessment against any land has been paid in full, or if the assessment remaining outstanding against such land is less than the rebate apportioned to such land, the amount so rebated or excess of rebate over assessment shall be paid into the maintenance fund of the district and a proper credit on any existing or future assessment for maintenance shall be entered in favor of the land entitled thereto. The lands in the original district shall remain bound for the whole of the original unpaid assessment thereon for the payment of any outstanding unpaid warrants or bonds secured to be paid by such assessments.

[**1917 c 130 § 37; 1913 c 176 § 35; RRS § 4443.**]

85.08.565

Special assessments—Budgets—Alternative methods.

RCW **85.38.140** through **85.38.170** constitute a mutually exclusive alternative method by which diking, drainage, or sewerage improvement districts in existence as of July 28, 1985, may measure and impose special assessments and adopt budgets. RCW **85.38.150** through **85.38.170** constitute the exclusive method by which diking, drainage, or sewerage improvement districts created after July 28, 1985, may measure and impose special assessments and adopt budgets.

[**1985 c 396 § 26.**]

NOTES:

85.08.570

Districts in two or more counties—Notice—Hearings.

When a drainage, diking, or sewerage system is proposed which will require a location, or the assessment of lands, in more than one county, application therefor shall be made to the board of county commissioners in each of said counties, and the county engineers shall make preliminary reports for their respective counties. The lines of such proposed improvement shall be examined by the county engineers of the counties wherein said improvements will lie, jointly. The hearings in regard to such improvements, provided for by RCW * **85.08.150**, and **85.08.400** through **85.08.430** shall be had by the boards of county commissioners of the two counties in joint sessions, and all other matters required to be done by the county commissioners in regard to such improvement and the improvement district shall be had and

done by the boards of county commissioners of the counties wherein such system of improvements shall lie, either in joint session at such place as the said board shall order, or by concurrent order entered into by the said boards at their respective offices. Notice of the hearings shall be given by the auditors of both counties jointly by publication in the official paper of each of said counties. The county engineer of the county wherein the greatest length of drainage, diking, or sewerage system will lie, shall have charge of the engineering work and be ex officio a member of the boards in this chapter provided for. The schedule of apportionment shall be prepared in separate parts for the land in the respective counties; and that part of said roll containing the assessments upon the lands in each respective county shall be transmitted to the treasurer thereof, and the treasurer of said county shall give notice of said assessments as provided in RCW 85.08.400 through 85.08.430, and shall collect the assessments therein contained and shall also extend and collect the annual maintenance levies of said district upon the lands of said district lying in his or her county. The auditor of the county in which the greater length of the drainage, diking, or sewerage system shall lie shall act as clerk of the joint session of the boards of county commissioners, and shall issue the warrants of the improvement district, and shall attest the signatures of the two boards of county commissioners on the bonds. He or she shall furnish to the auditor of the other county duplicate copies of the records of proceedings of such joint sessions. Duplicate records of all proceedings had and papers filed in connection with such improvements shall be kept, one with the auditor of each county. Protests or other papers filed with the auditor who is not clerk of the joint sessions shall be forwarded forthwith by him or her to the auditor who acts as clerk of such joint sessions. The treasurer of said county shall register and certify and pay the warrants and the bonds, and shall have charge of the funds of the district; and to him or her, the treasurer of the county in which the lesser portion of such system of improvements lie, shall remit semiannually, in time for the semiannual warrant and bond calls, all such collections made in such other county. A drainage, diking, or sewerage improvement district lying in more than one county shall be designated "joint drainage (or diking) or sewerage improvement district No. of and counties." All proceedings in regard to joint drainage, diking improvement districts, which have heretofore been had and done substantially in accordance with the amendatory provisions of this chapter are hereby approved and declared to be valid.

[2013 c 23 § 416; 1923 c 46 § 13; 1921 c 157 § 6; 1913 c 176 § 38; RRS § 4446.]

NOTES:

***Reviser's note:** RCW 85.08.150 was repealed by 1985 c 396 § 87. See RCW 85.38.040, 85.38.050.

85.08.630

Waters developed—Defined—Disposal of.

The use of any waters developed by the drainage system of any drainage improvement district shall be subject to the control of the drainage improvement district and such district shall have the right to dispose of and contract for the use of such waters for irrigation or other uses, as hereinafter provided: PROVIDED, That the waters developed by any existing drainage system, and the waters developed by any drainage system hereafter constructed which shall remain undisposed of for three years after the completion of the improvement and the levy of the assessment to pay the cost thereof, shall not be subject to disposal by such district where such waters shall have been appropriated by any person at a point below the outlet of the drainage system of such district. The term "waters developed" as used in this chapter shall not be held to include surface waste waters from irrigation.

[1917 c 130 § 7; RRS § 4455.]

85.08.640

Waters developed—Contracts for use and sale.

The board of supervisors may enter into any contract for the use, sale or disposal of such waters that in their judgment shall be for the best interests of the district; but no such sale, contract or disposition shall be made except by the unanimous vote of the board. The district shall not guarantee nor warrant the amount or flow of, nor the title to, such waters; and no use, sale or disposition of such waters shall be lawful that will interfere with the efficiency of said drainage system.

[1917 c 130 § 8; RRS § 4456.]

85.08.650

Waters developed—Application for use.

Any person or corporation desiring to acquire and use the waters developed by any drainage system, may make application therefor in writing to the board of supervisors of the district, accompanying such application with a bond to be approved by the board, conditioned that the applicant will pay the costs of the investigation and hearing in case no disposal of said waters be made thereat. Successive applications and proceedings may be made and had as long as there is any water remaining undisposed of in said drainage system.

[1917 c 130 § 9; RRS § 4457.]

85.08.660

Waters developed—Notice of hearing—Form of application—Bond.

When any such application shall be filed, the board of supervisors of the district shall cause to be published in the county official paper, once a week for three successive weeks prior to the date of the hearing hereinafter referred to, a notice fixing the time and place within the district when the board will hear and consider such applications. All applications shall be in writing and contain a statement of the proposed use to be made of the water, specifying the time, place and manner of such proposed use; and in entering into any such contract, the board of supervisors of the district may require such security as they may deem reasonable for the proper construction and installation of works of diversion and for the use of said water by the party proposing to use the same.

[1917 c 130 § 10; RRS § 4458.]

85.08.670

Prosecuting attorney—Duties.

It shall be the duty of the prosecuting attorney of each county to prepare suitable blanks for the use of the board of county commissioners under this chapter, not otherwise provided for, and to advise

the board of county commissioners and other officers of the county and the boards provided for by this chapter in regard to the proceedings and in the performance of their duties under this chapter, and perform such other duties as in this chapter provided and required.

[1913 c 176 § 36; RRS § 4444.]

85.08.680

Rules and regulations.

The board of supervisors of each district shall make reasonable rules and regulations whereby any owner of land in the district may make connection for drainage, or sewerage purposes, with any drainage, or sewerage system thereof. They shall also maintain and keep efficient the system of improvement of the district.

[1923 c 46 § 12; 1917 c 130 § 38; 1913 c 176 § 37; RRS § 4445.]

85.08.690

Penalty for injury to or interference with improvement.

Every person who shall wilfully damage or interfere with the operation of any dikes, drains, ditches or other improvements of any diking or drainage improvement district shall be guilty of a misdemeanor.

[1917 c 130 § 11; RRS § 4459.]

85.08.820

Drainage bonds owned by state—Cancellation of interest and assessments—Levy omitted.

Whenever the department of ecology shall have purchased and the state of Washington owns the entire issue of any series of bonds of any county in the state, the payment of which is to be made from and is secured by assessments upon the property included within any drainage improvement district organized and existing in such county, and it shall appear to the satisfaction of the director of ecology that owing to and by reason of the nature of the soil within and the topography of such drainage improvement district the lands contained therein were not or will not be drained sufficiently to permit the cultivation thereof within the time when assessments for the payment of the interest on said bonds and to constitute a sinking fund to retire said bonds as provided by law became or will become due, and that by reason thereof the owners of said lands were or will be unable to meet said assessment, the director of ecology shall have the power and he or she is hereby authorized under such terms and conditions as he or she shall deem advisable to enter into a contract in writing with the board of county commissioners of the county issuing such bonds, waiving the payment of interest upon such bonds from the date of their issue for not to exceed five years, and extending the time of payment of said bonds for not to exceed five years; and upon the execution of said contract the board of county commissioners of said county shall have the power and is hereby authorized to cancel all assessments made upon the lands included within such drainage improvement district for the payment of principal and/or interest on said bonds prior to the

date of said contract, and to omit the levy of any assessments for said purposes until the expiration of the time of the waiver of interest payments upon said bonds specified in said contract.

[2013 c 23 § 417; 1988 c 127 § 38; 1925 ex.s. c 140 § 1; RRS § 4332-1.]

85.08.830

Merger of improvement district with irrigation district—Authorized.

Whenever a drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district within an irrigation district or irrigation districts desires to merge with an irrigation district or irrigation districts in which lands of the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district are located, it may petition the board or boards of county commissioners, as the case may be, to do so: PROVIDED, That only that portion of the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district within a particular irrigation district may merge with the irrigation district within which it is situated.

[1957 c 94 § 2.]

NOTES:

Merger of improvement district with irrigation district: RCW 87.03.720 through 87.03.745.

85.08.840

Merger of improvement district with irrigation district—Jurisdiction to hear, supervise, and conduct proceedings—Clerk, notice, records.

The boards of county commissioners of the counties in which a joint drainage improvement district is situated shall have jurisdiction in joint session to hear, supervise, and conduct the merger proceedings relating to such a district. The auditor of the county in which the greater length of the system of improvements lies shall act as clerk of the joint sessions of the boards of county commissioners, and shall give the notice provided for in RCW 85.08.870. He or she shall furnish to the auditor of the other county duplicate copies of the records of proceedings of the joint sessions. Duplicate records of all proceedings had and papers filed in connection with the merger of a joint drainage improvement district shall be kept with the auditor of each county. The board of county commissioners of the county in which a drainage improvement district or consolidated drainage improvement district is situated shall have exclusive jurisdiction to hear, supervise, and conduct merger proceedings relating to such districts.

[2013 c 23 § 418; 1957 c 94 § 3.]

85.08.850

Merger of improvement district with irrigation district—Petition—Signing—Presentation.

The petition requesting the merger shall be signed by the board of supervisors of, or by ten landowners located within, the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district and presented to the clerk or clerks of the appropriate county legislative authority or authorities, at a regular or special meeting.

[2001 c 149 § 2; 1996 c 313 § 1; 1957 c 94 § 4.]

85.08.860

Merger of improvement district with irrigation district—Assent by irrigation district—Election, order, notice.

If it appears to the board or boards of county commissioners that all portions of the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district will, as a result of the proceedings, be merged with the irrigation district or irrigation districts and that the board or boards of directors of the irrigation district or irrigation districts into which the drainage improvement, joint drainage improvement district, or consolidated drainage improvement district will be merged, which irrigation district or irrigation districts shall be named in the petition, are agreeable to the merger, and that the assent or assents thereto, in writing, by said irrigation district board or boards have been filed with the board or boards of county commissioners, the board or boards of county commissioners shall order an election to be held in the drainage improvement district, joint drainage improvement district or consolidated drainage improvement district to approve or disapprove the merger and shall fix the time thereof and cause notice to be published.

[1957 c 94 § 5.]

85.08.870

Merger of improvement district with irrigation district—Notice, contents—Election, ballots.

The notice shall be given and the election conducted in the manner, so far as is applicable, as for the election of members of the board of supervisors of a drainage improvement district. The notice shall advise of the election so ordered and the date, time and place thereof, state the filing of the petition, the names of those signing the petition and prayer thereof, and shall require the voters to cast ballots with the words "Merger, Yes" or "Merger, No."

[1957 c 94 § 6.]

85.08.880

Merger of improvement district with irrigation district—Proceedings and costs on approval or disapproval.

If a majority of the votes cast favor merger, the board or boards of county commissioners shall enter an order approving the petition and ordering the merger and file a certified copy thereof with the county auditor or auditors of the county or counties in which the district is situated, and the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district

shall thereupon be dissolved and its system of improvements vested in the irrigation district or irrigation districts without further proceedings. If a majority of the votes cast are against merger, the board of commissioners shall enter an order dismissing the proceedings. If the merger is approved, the expenses of the county or counties in connection with the election will be paid by the irrigation district or irrigation districts, with each irrigation district, if there is more than one, paying the same portion of the expenses as that portion of the drainage improvement district, joint drainage improvement district, or consolidated drainage district which is merged into the irrigation district. If the merger is not approved, the expenses of the county or counties in connection with the election will be paid by the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district.

[1957 c 94 § 7.]

85.08.890

Merger of improvement district with irrigation district—Prior indebtedness.

None of the indebtedness of the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district, or of the drainage improvement districts taken into the consolidated drainage improvement district, shall be affected by the merger and dissolution, and all lands liable to be assessed to pay such indebtedness shall remain liable to the same extent as if the merger and dissolution had not taken place, and all assessments theretofore levied shall remain unimpaired and shall be collected in the same manner as if no merger had taken place. The board or boards of directors of the irrigation district or irrigation districts with which the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district was merged shall have all the powers possessed at the time of the merger by the board of supervisors of the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district and the board or boards of county commissioners may levy and cause to be collected any and all assessments against any of the lands formerly within the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district necessary for the payment of all indebtedness thereof, and of the drainage improvement districts taken into the consolidated drainage improvement district. Until the assessments are collected and all indebtedness of each drainage improvement district or joint drainage improvement district included in the merger, either as such or, in the case of the former, as a part of a consolidated drainage improvement district, is paid, separate funds shall be maintained for each such drainage improvement district or joint drainage improvement district as were maintained before the merger.

[1957 c 94 § 8.]

85.08.895

Annexation of territory—Consolidation of special districts—Suspension of operations—Reactivation.

Diking or drainage improvement districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter **85.38** RCW.

[1986 c 278 § 13.]

NOTES:

Severability—1986 c 278: See note following RCW [36.01.010](#).

85.08.900

Alternative methods of formation of improvement districts.

Whenever an improvement district is sought to be established, in addition to the procedures authorized by this chapter there may be employed any other method authorized by law for the formation of districts or improvement districts so that the improvement district will qualify under the provisions of chapter [89.16](#) RCW.

[[1959 c 104 § 6](#).]

85.08.905

Sewerage improvement districts—Powers.

Sewerage improvement districts may investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities to collect, treat, and dispose of sanitary, industrial, and other sewage. Such facilities include on-site and off-site sewerage facilities, including approved septic tanks or septic tank systems.

[[1985 c 396 § 30](#).]

NOTES:

85.08.910

Sewerage improvement districts located in counties with populations of from forty thousand to less than seventy thousand become water-sewer districts.

See RCW [57.04.120](#).

85.08.920

Sewerage improvement districts operating as sewer districts become water-sewer districts—Procedure.

See RCW [57.04.130](#).