

## Chapter 85.16 RCW

### MAINTENANCE COSTS AND LEVIES—IMPROVEMENT DISTRICTS

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#### **85.16.010**

##### **Definitions.**

As used in this chapter:

- (1) "Appraisers" means the board of appraisers;
- (2) "Supervisors" means the district board of supervisors;
- (3) "Board" means the board of county commissioners;
- (4) "Auditor" means the county auditor;
- (5) "Treasurer" means the county treasurer; and

(6) "Maintenance", "maintenance of the system of improvements", "maintenance work", and other terms of similar import, mean and include not merely operating expenses and such upkeep and other work commonly classed as maintenance as shall be necessary to restore and preserve the district's system of improvement and the machinery and equipment operated in connection therewith in the same or as good condition as when originally constructed and installed, but also: (a) The making of such changes in and betterments to the original works, improvements and installations as shall, subject to the approval of the board, be by the supervisors deemed necessary to put the system of improvements into such condition that it shall provide adequate drainage and protection from overflow for the lands within

the district as contemplated and intended by the original construction and any enlargement and extension thereof thereafter made; and (b) all costs and expenses incident to any determination or redetermination of benefits and apportionment of costs made under the terms of this chapter.

[ [1949 c 26 § 1](#); Rem. Supp. 1949 § 4459-20.]

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### **85.16.020**

#### **Maintenance estimate and levy.**

On or before the first Monday in September in each year the supervisors of each diking, drainage or sewerage improvement district shall make and file with the board of the county containing such district, a statement and estimate in writing of the amount required for the maintenance of the system of improvements of said district for the ensuing fiscal year. The board shall, on or before the first Monday in October next ensuing, levy assessments for the amount of said estimate, or such amount as it shall deem advisable, upon the property within the district and against the state, the county containing such district, and the cities, towns and other municipal corporations within such district in respect of all highways, roads and streets and other lands, improvements, and facilities chargeable therewith owned by them respectively within such district. Said assessments shall be levied in the same proportion as the assessments to pay the original cost of construction of said system of improvements: PROVIDED HOWEVER, That when a determination or redetermination of benefits accruing to the properties within the district from the maintenance of the district's system of improvements or from the maintenance of the district's diking system and drainage system separately shall have been made, as hereinafter in this chapter provided, then the assessments for maintenance shall be levied in proportion to the benefits accruing to each piece or parcel of property and improvements benefited according to the latest determination of such benefits. Each such levy as made shall be certified by the auditor to the treasurer, who shall extend the same upon the district assessment roll.

[ [1949 c 26 § 2](#); Rem. Supp. 1949 § 4459-21.]

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### **85.16.030**

#### **Excess expenditures.**

In maintaining a system of improvements of any such district the supervisors thereof may at any time, with the approval of the county legislative authority and upon determination by such county legislative authority that an emergency exists, make expenditures in excess of the last annual maintenance assessments theretofore made, which excess amount or amounts shall in such event be included in the maintenance assessments for the succeeding year except as otherwise herein provided.

[ [1986 c 278 § 33](#); [1983 c 167 § 197](#); [1949 c 26 § 3](#); Rem. Supp. 1949 § 4459-22. Formerly RCW [85.16.030](#), [85.16.040](#), part and [85.16.050](#).]

#### **NOTES:**

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

**Liberal construction**—**Severability**—[1983 c 167](#): See RCW [39.46.010](#) and note following.

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## 85.16.060

### Determination of special benefits—Hearing.

At any time and from time to time, after completion of the original construction of any such district's system of improvements or after the completion of any alteration, reduction, enlargement, addition to, or other improvement of the system not constituting maintenance, as herein defined, the board may upon their own initiative, or upon petition filed by at least ten percent of the total number of owners of property within the district subject to assessments for maintenance, as shown by the latest assessment roll of the district shall, fix a date for and hold a hearing at the county seat for the purpose of determining or redetermining the special benefits accruing from the maintenance of the district's system of improvements to all property benefited thereby.

[ 1961 c 16 § 2. Prior: 1951 c 63 § 1; 1949 c 26 § 4, part; Rem. Supp. 1949 § 4459-23, part.]

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## 85.16.070

### Notice of hearing.

Notice of the hearing shall be given by publication in the official county newspaper and in such other newspaper published in or near the district as the county legislative authority may in its discretion direct, once a week for two consecutive weeks, the last publication of which shall be not less than seven nor more than fourteen days before the date of the hearing. Also, the county legislative authority shall serve by mail, at least ten days before the hearing, upon the commissioner of public lands of the state two copies of the published notice of the hearing together with a statement showing the amount of benefits determined by the appraisers in respect of each parcel of state, school, granted, or other lands owned by the state in the district, and shall similarly serve notice of the hearing upon the secretary of transportation, with a statement showing the amount of benefits determined by the appraisers in respect of any state primary or secondary highways within the district.

[ 1984 c 7 § 378; 1949 c 26 § 6; Rem. Supp. 1949 § 4459-25.]

### NOTES:

**Reviser's note:** 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.

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## 85.16.080

### Appraisal of special benefits.

At or within two weeks of the time of fixing the date for such hearing the board shall appoint three qualified appraisers, at least one of whom shall be a resident of the county in which said district is situated, who shall qualify as provided in RCW 85.08.360. Thereupon said appraisers shall proceed immediately to carefully examine the district's system of improvements and the public and private property within the district, and fairly, justly and equitably determine and apportion the special benefits

which will accrue from the maintenance of the district's system of improvements to each piece or parcel of privately and publicly owned land, together with the buildings and other permanent improvements thereon, and to the state, county, cities, towns and other municipal corporations for their roads and streets and other property within the district. The fact that any such property shall be exempt from general taxes shall not exempt the same from the provisions hereof.

[ **1961 c 16 § 3**. Prior: 1949 c 26 § 4, part; Rem. Supp. 1949 § 4459-23, part.]

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### **85.16.090**

#### **Factors to be considered in making appraisal—Report and schedule.**

The appraisers shall carefully consider and take into account all factors, situations and conditions which lawfully may be taken into consideration as bearing upon and determining such benefits and to that end may make such investigations, hold such hearings, and receive such evidence as they may deem proper and shall file their sworn report, with a complete schedule of all property within the district and the special benefits determined by them as accruing to each piece and parcel thereof, not less than twenty days prior to the date fixed for the hearing by the board.

[ **1949 c 26 § 5**; Rem. Supp. 1949 § 4459-24. Formerly RCW **85.16.090** and **85.16.100**.]

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### **85.16.110**

#### **Separate appraisals and schedules for diking and drainage benefits.**

In a district which functions both as a diking and a drainage improvement district, the appraisers, if so directed in the order of the board appointing them, shall determine separately, in accordance with RCW **85.16.060** and **85.16.080**, the special benefits accruing to the various properties within the district from the maintenance of the diking system and from the maintenance of the drainage system, and in such case their report shall contain separate schedules of the respective benefits accruing from the maintenance of the diking and drainage systems of improvement considered separately and, so far as may be, independently of each other.

[ **1961 c 16 § 4**; **1949 c 26 § 7**; Rem. Supp. 1949 § 4459-26.]

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### **85.16.115**

#### **Determining special benefit to portion of lot, tract, or parcel.**

When any person applies to the county treasurer to pay the diking, drainage or sewerage improvement district assessments upon a portion of a lot, tract or parcel upon which special benefits have been confirmed, the county treasurer shall refer such matter to the county engineer for investigation. The county engineer shall apportion the total benefits found as to such lot, tract or parcel between the portions thereof in such manner as may be fair, just and equitable taking into account all factors, situations and conditions which may be lawfully taken into consideration in determining such special benefits. Unless the several owners interested in said lot, tract or parcel assent to the apportionment so made, the county engineer shall give notice to the apportionment by mail to them, if known. Upon assent of the interested owners or after the expiration of five days from the date of notice without the filing of a written protest to the apportionment, the county engineer shall certify in writing the

apportioned benefit valuations to the county treasurer. The county treasurer, upon receipt of such certification, shall accept payment and issue receipt on the certified apportionment. If a written protest to such apportionment is filed with the county treasurer, the matter shall be heard by the county commissioners at their next regular session for final apportionment and the county treasurer shall accept and receipt for such assessments as determined and ordered by the county commissioners.

[ 1951 c 63 § 4.]

## NOTES:

County road engineer: Chapter 36.80 RCW.

District engineer: RCW 85.08.010.

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### 85.16.120

#### Apportionment of levy for extraordinary expenditures—Appraisal and hearing.

Whenever the board shall provide that a levy to meet extraordinary maintenance expenditures shall be spread over a term of years and warrants or bonds issued as provided in RCW 85.16.030, said board shall fix a date for and hold a hearing and appoint appraisers as provided in RCW 85.16.060 and 85.16.080. Said appraisers, in addition to discharging the duties imposed upon the appraisers by RCW 85.16.060, 85.16.080 and 85.16.090, shall: (1) Apportion the estimated costs of such extraordinary maintenance work to the properties within the district in proportion to the benefits accruing to said properties from the maintenance of the district's system of improvements as determined by them; and (2) file a complete schedule of said apportionment of costs with the board.

[ 1961 c 16 § 5; 1949 c 26 § 8; Rem. Supp. 1949 § 4459-27.]

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### 85.16.130

#### Conduct of hearing on appraisers' report—Correction, etc., of schedules.

At the hearing upon the report of the appraisers, which may be adjourned from time to time until finally completed, the board shall carefully examine and consider the special benefits and the apportionment of estimated costs determined by the appraisers and reported in the schedule or schedules, and any objections thereto which shall have been made in writing and filed with the board on or prior to ten o'clock a.m. of the date fixed for such hearing. Each objector shall be given reasonable time and opportunity to submit evidence and be heard on the merits of his or her objections. At the conclusion of such hearing, the board shall so correct, revise, raise, lower, change, or modify such schedule or schedules, or any part thereof, or strike therefrom any property not specially benefited, as to said board shall appear equitable and just. The board shall cause the clerk of the board to enter on each such schedule or schedules all such additions, cancellations, changes, and modifications made by it.

[ 2013 c 23 § 423; 1949 c 26 § 9; Rem. Supp. 1949 § 4459-28. Formerly RCW 85.16.130 and 85.16.140.]

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**85.16.150****Approval of schedules—Separate funds for diking, drainage systems.**

When the board shall have determined that the schedule or schedules of benefits and/or apportionment of costs as filed or as changed and modified by it are fair, just and equitable and, if estimated costs have been apportioned, that said benefits equal or exceed said costs apportioned, the members of the board approving the same shall sign said schedule or schedules and cause the clerk of the board to attest their signatures under his or her seal, and shall enter an order in the journal approving and confirming the final determination of such benefits and apportionment of costs and all proceedings leading thereto and in connection therewith. If separate schedules be established for maintenance of the diking system and of the drainage system, the board shall by order establish two separate maintenance funds, one for the maintenance of the diking system and one for the maintenance of the drainage system.

[ [2013 c 23 § 424](#); [1949 c 26 § 10](#); Rem. Supp. 1949 § 4459-29.]

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**85.16.160****Roll of benefits—Benefits to be basis of levies.**

Upon the approval and final determination of benefits the auditor shall immediately prepare a completed roll thereof, which shall contain a copy of the order of the board approving and confirming said benefits as finally determined, and shall deliver said roll to the treasurer. Said benefits shall be the basis for the apportionment and collection of maintenance levies thereafter made by the board.

[ [1949 c 26 § 11](#); Rem. Supp. 1949 § 4459-30.]

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**85.16.170****Levy for extraordinary expenditures—Roll.**

Upon the approval and final determination of the apportionment of estimated costs of extraordinary maintenance expenditures as provided in RCW [85.16.120](#) and [85.16.130](#), the board shall levy the amounts so apportioned against all the properties benefited and the amounts assessed against the state, county, cities and towns, and other municipal corporations benefited, and the auditor shall immediately prepare a completed roll thereof, which shall contain a copy of the order of the board approving and confirming said apportionment of estimated costs as finally determined and fixing and levying the assessments therefor, and shall deliver said roll to the treasurer for collection in accordance with the order of the board.

[ [1949 c 26 § 12](#); Rem. Supp. 1949 § 4459-31.]

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**85.16.180****Authorizing extraordinary work—Temporary construction warrants.**

The county legislative authority shall thereupon enter an order authorizing the contemplated extraordinary maintenance work to be done and authorizing the issuance of temporary construction

warrants to pay the cost of said work as it progresses, which warrants may bear interest at such rate or rates of interest as the county legislative authority shall determine. Warrants to pay the costs of such extraordinary maintenance may be issued and sold at one time or from time to time and in such series and amounts as may be found practicable and as determined by the board.

[ 1986 c 278 § 34; 1983 c 167 § 198; 1970 ex.s. c 56 § 92; 1969 ex.s. c 232 § 54; 1949 c 26 § 13; Rem. Supp. 1949 § 4459-32. Formerly RCW 85.16.040 and 85.16.180.]

## NOTES:

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

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

**Purpose—1970 ex.s. c 56:** See note following RCW 39.52.020.

**Validation—Saving—Severability—1969 ex.s. c 232:** See notes following RCW 39.52.020.

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## 85.16.190

### Judicial review—Regularity, validity of proceedings.

The decision of the board upon any objections to the determination of benefits and/or apportionment of costs and/or the levy of the assessments therefor, made within the time and in the manner prescribed in RCW 85.16.130, may be reviewed by the superior court of the county in which the district is situated and thereafter by the supreme court or the court of appeals within the time and in the manner and upon the conditions, so far as applicable, provided in RCW 85.08.440, with respect to appeals from and appellate review of the board's apportionment of the cost of construction of the district's system of improvements. The provisions of RCW 85.08.450, shall be controlling as to the regularity, validity, and conclusiveness of all the proceedings hereunder.

[ 1988 c 202 § 79; 1971 c 81 § 164; 1949 c 26 § 14; Rem. Supp. 1949 § 4459-33.]

## NOTES:

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

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## 85.16.200

### Redetermination of special benefits—Hearing.

Whenever, after the determination of special benefits accruing from the maintenance of the district's system of improvements, it appears to the board from a petition filed by the affected property owner or owners or otherwise, that by reason of permanent improvements or additions made, removed, abandoned or destroyed by fire or other casualty, or of other changes in the character or condition of the property, the benefits theretofore determined in respect to any one or more pieces or parcels of property

are no longer fair, just and equitable, then the board shall appoint three appraisers who shall qualify as in RCW **85.08.360** hereof. Said appraisers shall proceed immediately to carefully examine the pieces or parcels of property as to which since the last determination of special benefits thereto there have been permanent improvements or additions made, removed, abandoned or destroyed by fire or other casualty or other changes in the character or condition of the property. Said appraisers shall file their sworn report with the board setting forth the special benefits determined by them as accruing to each piece and parcel of property examined by them not less than ten days prior to the date of hearing. The board shall hold a hearing thereon at the county seat at the time of equalization of the real property assessment and shall give notice thereof as provided in RCW **85.16.070**.

[ **1951 c 63 § 2**; **1949 c 26 § 15**; Rem. Supp. 1949 § 4459-34.]

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### **85.16.210**

#### **Conduct of hearing on special benefits—Modification of schedules—Judicial review.**

At such hearing, which may be adjourned from time to time as may be necessary to give all persons interested or affected a reasonable opportunity to be heard, and after consideration of all evidence offered and all factors, situations, and conditions bearing upon or determinative of the benefits accruing and to accrue to such pieces or parcels of property, the board shall correct, revise, raise, lower, or otherwise change or confirm the benefits as theretofore determined, in respect of such pieces or parcels of property, as to it shall seem fair, just, and equitable under the circumstances, and thereafter such proceedings shall be had with respect to the confirmation or determination of the benefits and making and filing of a roll thereof, as are in RCW **85.16.130**, **85.16.150**, and **85.16.160** provided. Any property owner affected by any change thus made in the determination of benefits accruing to his or her property who shall have appeared at the hearing by the board and made written objections thereto as provided in RCW **85.16.130**, may appeal from the action of the board to the superior court and seek appellate review by the supreme court or the court of appeals, within the time, in the manner and upon the conditions, so far as applicable, provided in RCW **85.08.440**, with respect to appeals from the order of the board confirming the apportionment of the original cost of construction.

[ **2013 c 23 § 426**; **1988 c 202 § 80**; **1971 c 81 § 165**; **1949 c 26 § 16**; Rem. Supp. 1949 § 4459-35.]

#### **NOTES:**

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

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### **85.16.220**

#### **Other provisions shall apply—Exceptions.**

The provisions of \*RCW **85.08.280**, **85.08.310**, **85.08.320**, **85.08.420**, **85.08.430**, and **85.08.480** through **85.08.520**, shall be deemed and hereby are made a part of this chapter insofar as they may be applicable hereto, except that the unpaid assessments or installments thereof, which may have been levied for extraordinary maintenance costs as provided in RCW **85.16.170**, shall bear interest at a rate determined by the county legislative authority.

[ 1981 c 156 § 25; 1949 c 26 § 17; Rem. Supp. 1949 § 4459-36.]

## NOTES:

\*Reviser's note: RCW 85.08.280 was repealed by 1986 c 278 § 46.

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### 85.16.230

#### **Erroneous assessment—Correction.**

Whenever any payer of a diking, drainage, or sewerage improvement district maintenance assessment believes that, through obvious error in name, number, description, amount of benefit valuation, double assessment, or extension, or other obvious error, property on which he or she has paid an assessment has been erroneously assessed, he or she may pay such assessment under protest. If, within thirty days after such payment under protest, he or she files with the board a written verified petition setting out his or her name, address, and legal description of the property, the nature of the obvious error alleged to have been made, and the date and amount of any assessment paid thereon, the board shall cause such claim to be investigated. If upon investigation any assessment is found to be erroneous through obvious error, the board shall order such assessment to be corrected if no bond or long term warrant issue is affected. Where correction is ordered of an erroneous assessment already collected, the auditor, upon receipt of a certified copy of the board's order of correction, shall refund to the person paying the assessment the difference between the correct assessment and the erroneous assessment, plus legal interest on such difference from date of payment, by a warrant drawn on the maintenance fund of the district.

[ 2013 c 23 § 427; 1951 c 63 § 3.]