

## Chapter 85.18 RCW

### LEVY FOR CONTINUOUS BENEFITS—DIKING DISTRICTS

#### Sections

<b>85.18.005</b>	Declaration of purpose.
<b>85.18.010</b>	Levy for continuous benefits authorized—Base benefits.
<b>85.18.020</b>	Roll of protected property.
<b>85.18.030</b>	Hearing on roll—Determining continuous base benefit.
<b>85.18.040</b>	Notice of hearing.
<b>85.18.050</b>	Procedure on hearing—Objections.
<b>85.18.060</b>	Additional roll as to particular property—Procedure.
<b>85.18.070</b>	Roll to be certified and filed.
<b>85.18.080</b>	Roll to provide basis for levy.
<b>85.18.090</b>	Roll and proceedings conclusive—Exceptions—Right to injunction.
<b>85.18.100</b>	Review by superior court—How taken.
<b>85.18.110</b>	Review by superior court—Transcript—Contents—Filing.
<b>85.18.120</b>	Review by superior court—Filing fee—Bond—Priority of cause.
<b>85.18.130</b>	Review by superior court—Scope—Judgment.
<b>85.18.140</b>	Appellate review.
<b>85.18.150</b>	Levy is for continuous benefits only.
<b>85.18.160</b>	Annual estimate of costs—Levy as part of general taxes.
<b>85.18.170</b>	Emergency expenditures—Warrants.
<b>85.18.180</b>	Levy is exclusive method for raising revenue—Exception.

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#### **85.18.005**

##### **Declaration of purpose.**

The state declares that it has an interest in protecting and preserving productive land and buildings needed to make business function continuously. Where organized diking districts, through their improvements, have reclaimed land or protected it from overflow and have enabled erection of improvements thereon or have furnished such land and buildings protection against flood water, it is necessary to provide a just and equitable method to enable such diking districts continuously to function effectively. It is declared that there is a direct relationship, where such conditions exist, between the continuous functioning of such districts and the fair value of the lands and buildings thereon, or to be erected thereon, thus afforded protection.

[ 1951 c 45 § 1.]

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#### **85.18.010**

##### **Levy for continuous benefits authorized—Base benefits.**

When any diking district has been organized and the improvements made afford protection to land and buildings within such district against damage or destruction from overflow waters in that the level of the land and of the foundational structures of buildings thereon is below the water level at flood or high tide stages of the waters, fresh or salt, against which such district improvements furnished protection, the board of diking commissioners of such district may, under the procedure established in this chapter, determine such fact and by resolution so declare; and may provide that the cost of continued functioning of the district shall be paid through levies of dollar rates made and collected according to this chapter against the land and buildings thus protected, based upon the determined base benefits received by such land and buildings.

[ 1973 1st ex.s. c 195 § 115; 1951 c 45 § 2.]

## NOTES:

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW **84.52.043**.

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### 85.18.020

#### Roll of protected property.

To operate under this chapter, the board shall cause to be prepared and filed with it a roll containing descriptions of the land and buildings thereon within the district to which its improvements furnish the nature of protection set forth in RCW **85.18.010**. The roll shall show descriptions of the land and the name of its owner, or reputed owner, and such owner's address, as shown upon the tax roll of the treasurer of the county wherein the property is located, and the determined value of such land and any buildings thereon as last assessed and equalized by the taxing agencies of such county.

[ 1951 c 45 § 3.]

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### 85.18.030

#### Hearing on roll—Determining continuous base benefit.

After the roll is prepared the board shall give notice of a time and place at which the board will hold a public hearing to determine whether the facts and conditions heretofore recited in this chapter as a prerequisite to its application do or do not exist, and if so found to exist by said board at said hearing, then the board shall by resolution so declare. The notice shall also state that at said hearing, or any continuance thereof, the board will sit to consider said roll and to determine the continuous base benefits which each of the properties thereon are receiving and will receive from the continued operation and functioning of such district, which shall in no instance exceed one hundred percent of the true and fair value of such property in money, will consider all objections made thereto or to any part thereof, and will correct, revise, lower, change, or modify such roll as shall appear just and equitable; that when correct benefits are fixed upon said roll by said board, it will adopt said roll by resolution as establishing, until modified as hereinafter provided, the continuous base benefit to said protected lands and buildings against which will be levied and collected dollar rates to provide funds for the continuous functioning of said district.

[ 1973 1st ex.s. c 195 § 116; 1951 c 45 § 4.]

## NOTES:

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW 84.52.043.

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### 85.18.040

#### Notice of hearing.

The notice of the time and place of hearing shall be given to any owner, or reputed owner, of the property which is listed on the roll as aforesaid, by mailing a copy thereof at least thirty days before the date fixed for the hearing to the owner or owners at his or her or their address as shown on the tax rolls of the county treasurer for the property described. In addition thereto, the notice shall be published at least once a week for three consecutive weeks in a newspaper of general circulation in the district. At least fifteen days must elapse between the last date of publication thereof and the date fixed for the hearing.

[ 2013 c 23 § 428; 1985 c 469 § 76; 1951 c 45 § 5.]

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### 85.18.050

#### Procedure on hearing—Objections.

At said hearing, or adjournments thereof, the board shall review said roll and determine the continuous base benefits to land and buildings furnished continuous protection by the improvement system of the district; hear objections to the adoption of said roll; correct, revise, change, modify or set aside such roll, or any part thereof, as to the board shall appear equitable and just; and then adopt the same by resolution. All objections to this or any subsequent roll must be in writing and filed with the board during the hearing before the roll is adopted and must state clearly the grounds of objection. Objections not made within the time and in the manner herein prescribed shall be conclusively presumed to have been waived.

[ 1951 c 45 § 6.]

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### 85.18.060

#### Additional roll as to particular property—Procedure.

The board shall, from time to time, examine the properties within said district, and if it finds that any protected land or buildings thereon have been omitted from the existing roll, or new buildings have been added to lands, or the condition of land or buildings has changed, and in the initial judgment of the board such land or the buildings thereon was such that it was furnished the protective benefits of the improvements of the district, the board shall cause at each such time an additional roll of such property to be filed with it, and hold a hearing to determine and make such corrections, additions, alterations and modifications of the benefits to such property only, and to hear any objections filed as to such property

only. The board shall give notice of such hearing to the owner, or reputed owner, of the property involved, at the address of such owner as then shown on the tax rolls of the treasurer of the county wherein the property is located, in the same way and manner as herein provided for consideration of the original roll, but such notice need not be published.

At the hearing, or any adjournment thereof, the board shall have power to correct, revise, change, modify, or set aside such roll, or any part thereof, as shall be deemed just and equitable, and then adopt the same by resolution.

[ 1951 c 45 § 7.]

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### **85.18.070**

#### **Roll to be certified and filed.**

When any roll or additional or supplemental roll be adopted by the board of commissioners, the same shall be certified to, and filed with, the auditor of the county wherein the property contained on said roll is situated, and shall supplement said original roll.

[ 1951 c 45 § 8.]

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### **85.18.080**

#### **Roll to provide basis for levy.**

Until further modified, amended, or changed by an additional or supplemental roll certified to the county auditor after the foregoing procedure is had, the original roll, as modified or supplemented, if the same is done, shall serve as the base of benefits to the land and buildings protected by the improvement system of said district against which dollar rate is levied and collected from time to time for the continued functioning of said diking district.

[ 1973 1st ex.s. c 195 § 117; 1951 c 45 § 9.]

#### **NOTES:**

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW **84.52.043**.

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### **85.18.090**

#### **Roll and proceedings conclusive—Exceptions—Right to injunction.**

Whenever any roll shall have been adopted by the board of commissioners, the regularity, validity and correctness of the proceedings relating thereto shall be conclusive upon all parties, and it cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll as provided in RCW **85.18.050** and appealing from the action of the board in confirming such roll in the manner and within the time in this chapter provided. No proceeding of any kind, except proceedings had through the process of appeal as in this chapter provided, shall be

commenced or prosecuted or may be maintained, for the purpose of defeating or contesting any assessment or charge made through levies under this chapter, or the sale of any property to pay such charges: PROVIDED, HOWEVER, That suit in injunction may be brought to prevent collection of charges of assessments or sale of property thereunder upon the following grounds and no other:

(1) That the property charged or about to be sold does not appear upon the district roll filed with the county auditor, or

(2) The charge has been paid.

[ 1951 c 45 § 10.]

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### **85.18.100**

#### **Review by superior court—How taken.**

The decision of the board of commissioners upon any objection made within the time and in the manner prescribed may be reviewed by the superior court of the county wherein the property in question is located, upon appeal thereto taken in the following manner: Any person aggrieved must file his or her petition for writ of review with the clerk of the superior court wherein the property is located within ten days after the roll affecting such aggrieved party was adopted by resolution, and serve a copy thereof upon the commissioners. The petition shall describe the property in question, set forth the written objections which were made to the decision, the date of filing of such objections, and be signed by such party or one in his or her behalf. The court shall forthwith grant such petition if correct as to form and filed in accordance with this chapter.

[ 2013 c 23 § 429; 1951 c 45 § 11.]

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### **85.18.110**

#### **Review by superior court—Transcript—Contents—Filing.**

Within ten days from the filing of such petition for review, the commission, unless the court shall grant additional time, shall file with the clerk of such court its certified transcript containing such portion of the roll as is subject to review, any written objections thereto filed with the board by the person reviewing before said roll was adopted, and a copy of the resolution adopting the roll.

[ 1951 c 45 § 12.]

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### **85.18.120**

#### **Review by superior court—Filing fee—Bond—Priority of cause.**

The county clerk shall charge the same filing fees for petitions for review as in civil actions. At the time of the filing of such petition with the clerk, the appellant shall execute and file a bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of said court, conditioned upon his or her prosecuting his or her appeal without delay and to guarantee all costs which may be assessed against him or her by reason of such review. The court shall, on motion of either party to the cause, with notice to the other party, set said cause for trial at the earliest time available to the court, fixing a date for hearing and trial without a jury. Said cause shall have preference over all civil actions pending in said court except eminent domain and forcible entry and detainer proceedings.

[ 2013 c 23 § 430; 1951 c 45 § 13.]

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### **85.18.130**

#### **Review by superior court—Scope—Judgment.**

At the trial the court shall determine whether the board has acted within its discretion and has correctly construed and applied the law. If it finds that it has, the finding of the board shall be affirmed; otherwise it shall be reversed or modified. The judgment of the court may change, confirm, correct, or modify the values of the property in question as shown upon the roll, and a certified copy thereof shall be filed with the county auditor, who shall change, modify or correct as and if required.

[ 1951 c 45 § 14.]

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### **85.18.140**

#### **Appellate review.**

Appellate review may be sought as in other civil cases: PROVIDED, HOWEVER, That review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals, on such appeal, may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision if required.

[ 1988 c 202 § 81; 1971 c 81 § 166; 1951 c 45 § 15.]

#### **NOTES:**

**Severability—1988 c 202:** See note following RCW [2.24.050](#).

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### **85.18.150**

#### **Levy is for continuous benefits only.**

The dollar rate levy returns collected from time to time under this chapter are solely assessments for benefits received continuously by the protected properties, calculated in the manner specified in this chapter as a just and equitable way for all protected property to share the expense of such required protection.

[ 1973 1st ex.s. c 195 § 118; 1951 c 45 § 16.]

#### **NOTES:**

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW [84.52.043](#).

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**85.18.160****Annual estimate of costs—Levy as part of general taxes.**

The board of commissioners of any diking district proceeding under this chapter shall, on or before the first day of November of each year, make an estimate of the costs reasonably anticipated to be required for the effective functioning of such district during the ensuing year and until further revenue therefor can be made available, and cause its chair or secretary to certify the same on or before said date to the county auditor, and the amount so certified shall be levied by the regular taxing agencies against the base benefits to the lands and buildings within such district as shown by the then current complete roll of such properties and the determined benefits thereto as therefore certified to and filed with such county auditor by the commissioners of such district. When thus levied, the amount of assessment produced thereby shall be added by the general taxing authorities to the general taxes against said lands and collected therewith as a part thereof. If unpaid, any delinquencies in such assessments shall bear interest at the same rate and in the same manner as general taxes and they shall be included in and be made a part of any general tax foreclosure proceedings, according to the provisions of law with relation to such foreclosures. As assessment collections are made, the county treasurer shall credit the same to the funds of such district.

[ 2013 c 23 § 425; 1951 c 45 § 17.]

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**85.18.170****Emergency expenditures—Warrants.**

In the case of an emergency or disaster not in contemplation at the time of making the annual estimate of costs, declared to be such by resolution of such board, the diking commissioners may incur additional obligations and issue valid warrants therefor in excess of such estimate, in the manner provided by law for issuance of warrants by diking districts and the servicing thereof, and all such warrants so issued shall be valid and legal obligations of such district and its taxable lands and improvements as shown upon the then current roll of said district filed with the county auditor.

[ 1951 c 45 § 18.]

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**85.18.180****Levy is exclusive method for raising revenue—Exception.**

Any diking district operating under this chapter shall not use the processes provided for raising revenue under any other law: PROVIDED, That any such other method of raising revenue provided by law may be used concurrently for the sole purpose of extinguishing indebtedness incurred before the district adopts the procedure of this chapter, and no funds raised hereunder shall be used to pay such prior indebtedness.

[ 1951 c 45 § 19.]