

Chapter 6133: JOINT COUNTY DITCHES

6133.01 Joint county ditch definitions.

As used in sections 6133.01 to [6133.11](#), [6133.14](#), and [6133.15](#) of the Revised Code, "owner," "person," "public corporation," "land," "benefit," and "improvement" have the meaning set forth in section [6131.01](#) of the Revised Code.

Effective Date: 04-09-1981 .

6133.02 Hearing - filing petition.

When an improvement is proposed to be located in or benefits or damages land in two or more counties, the proceeding shall be conducted by a joint board of county commissioners consisting of the members of the boards of county commissioners of the several counties in which land may be benefited or damaged by the proposed improvement. In such case, the petition for the improvement shall be filed with the clerk of the board of county commissioners of the county in which the majority of the proposed improvement is located.

Effective Date: 04-09-1981 .

6133.03 Procedure of joint board.

A joint board of county commissioners may do all of the things that a board of county commissioners may do in a single county improvement, and shall be governed by and be subject to sections [6131.01](#) to [6131.64](#) of the Revised Code, relating to single county ditches insofar as applicable. The proceedings for a joint county improvement shall proceed before the joint board the same as if the joint board were a board of county commissioners representing a county that included all the territory of all the counties represented by the commissioners on the joint board. The cost of a joint county improvement shall be paid by the counties affected by such improvement, in proportion to their total ditch assessments, or as otherwise apportioned by the joint board, for such improvement. To meet its portion of such cost, a board of county commissioners may borrow such sums of money as are apportioned to the county, and may issue and sell the bonds of the county to secure the payment of the principal and interest of the sum borrowed. Such principal and interest shall be paid as provided in section [133.26](#) of the Revised Code. All rights of appeal, and all other rights or remedies as provided in sections [6131.01](#) to [6131.64](#) of the Revised Code, apply to joint county improvements. All officers doing any acts or making any findings for or against such improvement shall perform all the duties required of them under such sections. All owners affected by the proceedings for a joint county improvement shall have all the rights and remedies given them in the case of single county improvements. The proceedings in joint county improvements shall be the same as the proceedings in single county improvements except as modified in sections [6133.02](#) to [6133.11](#) of the Revised Code.

Effective Date: 10-30-1989 .

6133.04 Organization of joint board.

On the date fixed by the clerk of the board of county commissioners with whom the petition was filed, the board of county commissioners from each of the counties affected by a proposed joint county improvement shall meet in the county in which the petition is filed and organize a joint board of county commissioners by electing one of their number president. The clerk of the board of county commissioners of the county in which the petition is filed shall act as clerk of the joint board and shall enter the findings of the joint board in the journal of the board of county commissioners of his county, shall do all things required to be done by the clerk, and shall make the final record of the improvement in his county. The clerk shall file certified copies of all proceedings with the clerks of the boards of all affected counties. A majority of the county commissioners constituting the joint board shall constitute a quorum. All decisions of the joint board shall be made by a vote of a majority of the county commissioners constituting the joint board. The director of the department of natural resources shall be a member ex officio of the joint board and may participate, either in person or through a designated representative, in deliberations and proceedings of the joint board but shall have no vote except in case of a tie, in which case

the proceedings shall be adjourned for thirty days, during which time the director shall review the proceedings and cast the deciding vote. The vote shall be recorded in the journal. After the view of the improvement by the joint board, all hearings shall be held in the county in which the petition is filed.

Effective Date: 04-09-1981 .

6133.041 Conduct of proceedings using electronic means.

(A) Notwithstanding any other provision of this chapter or Chapter 6131. of the Revised Code to the contrary, a joint board of county commissioners, when practicable, may conduct proceedings regarding existing improvements by video conference or, if video conference is not available, by teleconference. The joint board shall make provisions for public attendance at any location involved in such a proceeding. The participation of any commissioner or board of county commissioners in a video conference or teleconference shall occur at the location of the commissioners' main office or board room in an open meeting at which the public is allowed to attend.

(B) Before convening a meeting of a joint board of county commissioners by video conference or by teleconference, designated staff shall send, via electronic mail, facsimile, or United States postal service, a copy of meeting-related documents to each member of the joint board.

(C) The minutes of each joint county ditch meeting shall specify who was attending by teleconference, who was attending by video conference, and who was physically present. Any vote taken in a meeting held by teleconference that is not unanimous shall be recorded as a roll call vote.

(D) Nothing in section 121.22 of the Revised Code prohibits a joint board of county commissioners from conducting a proceeding in a manner authorized by this section.

Added by 130th General Assembly File No. TBD, SB 155, §1, eff. 7/10/2014.

6133.05 Costs and expenses of joint board.

In the matter of an improvement under sections [6133.02](#) to [6133.11](#) of the Revised Code, there shall be included as a portion of the costs and expenses to be paid by the petitioners, if the petition authorized by section [6133.02](#) of the Revised Code is dismissed, or assessed to them as a part of the costs, if the petition is granted, the actual expenses of the members of the joint board of county commissioners for the performance of their duties at places other than in their own county.

Effective Date: 04-09-1981 .

6133.06 Duties of clerk.

Upon the filing of the petition authorized by section [6133.02](#) of the Revised Code, the clerk of the board of county commissioners with whom the petition is filed shall call a joint meeting of the boards of county commissioners of all the counties interested to be held at a designated place in the county in which the petition is filed at a date not more than thirty days after the filing of the petition for the purpose of organizing the joint board. The clerk shall give notice of the filing of the petition and of the meeting to the board of his county and shall mail the notice together with a copy of the petition to the clerks of the boards of the county commissioners of the other counties interested who shall immediately notify the boards of their counties of the filing of the petition and of the date fixed for the meeting of the joint board. All applications, remonstrances, claims for compensation or damages, reports, schedules, certificates, statements, contracts, bonds, and other papers shall be filed with the clerk with whom the petition is filed. The clerk shall file certified copies of all proceedings with the clerks of the boards of all affected counties.

Effective Date: 04-09-1981 .

6133.07 Duties of county auditor and treasurer.

The county auditor and county treasurer of the county in which the petition authorized by section [6133.02](#) of the Revised Code is filed shall ex officio become the fiscal agents of all the counties interested in the proposed improvement. Such auditor shall certify to the auditor of the other counties a schedule of the assessments to be levied for the cost of locating and constructing the improvement and the auditor of such other county shall proceed forthwith to place such assessment upon the duplicates. The assessments so certified for collection to an auditor of another county shall be a lien on the land within such county from the date such certificate is received by the auditor of such other county. The treasurer shall proceed to collect the same pursuant to the orders made in said proceedings, and such assessments when collected shall be paid to the treasurer of the county in which the petition was filed. The auditor and the treasurer shall receive and account for such funds in the same manner as they receive and account for assessments collected for single county improvements. The treasurer and the auditor with their bondsmen shall be liable on their official bonds for any misappropriation of such funds. All warrants for the payment of costs of location and for costs of construction of a joint county improvement shall be drawn by the auditor of the county in which the petition is filed, on the treasurer of said county, payable out of the general ditch improvement fund of said county. If the petition for the improvement is dismissed after the costs and expenses have been incurred in making the county engineer's reports and schedules provided for in section [6133.08](#) of the Revised Code, such costs shall be paid by the several counties respectively, as the joint board of county commissioners deems just and equitable. All assessments when collected in all the counties and any amount which another county should pay shall be paid into the treasury of the county in which the petition was filed, and credited to the general ditch improvement fund of said county.

Effective Date: 10-01-1953 .

[6133.08 Field work and surveys.](#)

The joint board may designate the engineer of the county where the petition is filed to do the field work and make the survey, plans, and estimates, but the engineer of each county interested shall assist in making the reports and schedules. All reports and schedules of the engineer shall be signed and approved by all the engineers of the several counties interested and shall be filed with the clerk with whom the petition is filed. If the engineers of the several counties interested do not concur in the reports or schedules, separate reports or schedules may be filed by one or more of the engineers, and the costs thereof shall be paid by the counties from which the separate reports or schedules are filed. In making up the schedules and reports the engineers shall proceed to make the schedules and reports of the improvement the same as if the improvement were an improvement within a county of the size of the several counties interested in the proposed improvement. The engineers who do not make the survey may make such observations and take such levels as are necessary to assist them in making their schedules and in arriving at the proper amount to be assessed against each tract of land.

The engineer who did the field work and made the survey and plans shall proceed to take bids, inspect the progress of the work and make estimates and reports on the progress of the work, accept the work and material for the improvement, and issue certificates therefor, as in the case of single county improvements, and shall do all things to be done by an engineer after the letting of the contracts.

Effective Date: 04-09-1981 .

[6133.09 Compensation or damage claims.](#)

The hearing on the reports and schedules of the county engineers provided for by section [6133.08](#) of the Revised Code and all other proceedings relative to a proposed joint county improvement shall be had the same as in single county ditches. Claims for compensation for land taken or for damages to land may be appealed by an owner interested, or by the prosecuting attorney, to the court of common pleas of the county in which the land for which the owner claims compensation or damages is located. All claims for compensation or damages which are allowed shall be paid out of the treasury of the county in which such land is located. The county auditor of the county in which the petition is filed shall certify the amounts of compensation or damages so found by the joint board of county commissioners to the auditors of the other counties, respectively, for payment.

If an appeal is taken on the question of compensation or damages, the auditor of the county in which the petition is filed shall transmit to the clerk of the court of common pleas of the county in which the land of the appellant is located the original papers relating to the claim for compensation or damages and a certified transcript of the findings on the improvement and on the claim, which shall be docketed by the clerk and shall proceed the same as an appeal on a claim for compensation or damages in a single county improvement proceeding.

Effective Date: 10-01-1953 .

6133.10 Appeals.

All appeals to the court of common pleas except appeals on claims for compensation or damages shall be heard by one judge of the court of common pleas from each of the counties interested, sitting en banc. If a judge is disqualified or for any reason does not care to hear the case, the chief justice of the supreme court shall designate a judge to sit in his place. Appeals on claims for compensation or damages shall be tried by jury as provided in sections [6131.01](#) to [6131.64](#), inclusive, of the Revised Code.

Effective Date: 10-01-1953 .

6133.11 Appeal when joint board unable to agree.

If the joint board of county commissioners finds for the improvement and at the final hearing is unable to agree upon the amount to be assessed to each county to be paid by the county because the improvement is conducive to the public welfare, or of benefit to public highways or to land owned by the county, then such joint board shall by resolution state the fact that such joint board is not able to agree as to such fact. Upon the adoption of such resolution, the question shall be appealed to the court of common pleas as is provided in sections [6133.02](#) to 6133.11, inclusive, of the Revised Code. No bond on appeal need be filed, the resolution of the joint board stating such inability to agree shall be deemed the statement on appeal. The clerk of the joint board shall perfect the appeal by filing a transcript, including the resolution of the joint board finding that the joint board cannot agree, with all of the original papers, in the court. The court shall hear such appeal the same as other appeals under sections [6133.02](#) to 6133.11, inclusive, of the Revised Code, and make such order as to costs as is equitable.

Effective Date: 08-23-1957 .

6133.12, 6133.13 [Repealed].

Effective Date: 04-09-1981 .

6133.14 Payment of assessment against state.

The state shall pay to the county treasurer of the county in which the petition for a drainage improvement was filed the assessment levied against it for the state's proportionate share of the cost of any improvement authorized or constructed under sections [6131.01](#) to [6131.64](#), [6133.01](#) to [6133.15](#) and [6135.01](#) to [6135.27](#) of the Revised Code and all unpaid assessments for maintenance as provided by sections [6137.01](#) to [6137.12](#) of the Revised Code.

Effective Date: 07-01-1985 .

6133.15 Drainage assessment fund.

There is hereby established in the state treasury the drainage assessment fund, to be funded as provided by the general assembly and out of which the state's share of all assessments for drainage improvement shall be paid.

Effective Date: 07-01-1985 .

6133.16 [Repealed].

Effective Date: 04-09-1981 .