

The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

Title 10: Conservation And Development

Chapter 39: Watershed Protection And Flood Prevention

§ 951. Flood prevention, powers of Governor

The Governor may employ such expert assistance as he or she deems advisable for the purpose of devising ways and means of averting and mitigating damage by floods, and may disseminate such practical information as he or she may obtain thereby.

§ 952. Federal flood control program; natural resources conservation districts as sponsoring agencies

(a) The natural resources conservation districts may act as local sponsoring agencies under the provisions of Public Law 83-566, for carrying out programs for flood control, stream bank protection, and channel improvements, as well as land treatment and drainage, subject to review and approval by the Department of Environmental Conservation of all plans for projects that affect stream flow.

(b) A municipality, when authorized by a majority of the voters voting at a meeting warned and held for that purpose, may purchase, or acquire by gift, title to land within the State for the purpose of constructing, maintaining, and operating improvements for flood prevention or conserving, developing, using, and disposing of water under Public Law 83-566, and may pay 100 percent or less of the nonfederal costs thereof. (Amended 1961, No. 100, § 2(b); 1963, No. 111; 1961, No. 79, § 1(b), eff. May 7, 1963; 1966, No. 27 (Sp. Sess.), § 1, eff. March 12, 1966; 1967, No. 303 (Adj. Sess.), § 15(b), eff. March 22, 1968; 1981, No. 222 (Adj. Sess.), § 14; 1987, No. 76, § 18.)

§ 953. Flood prevention contracts under federal programs

In addition to its powers and duties under chapters 37 and 43 of this title, the Department of Environmental Conservation, when requested by local agencies, and acting alone or with other State or local agencies, with the approval of the Governor, may contract in the name of the State for constructing, maintaining, and operating improvements for flood prevention or conserving, developing, using, and disposing of water under Public Law 83-566. The Department of Environmental Conservation may also give technical or other assistance to natural resources conservation districts and other local sponsoring agencies in carrying out their responsibilities under section 4 of Public Law 83-566. The Commissioner of Environmental Conservation may also acquire real and personal property, including property held for public use, by gift, purchase, lease, or eminent domain, in connection with constructing or carrying out projects under Public Law 83-566. (Amended 1961, No. 100, § 2; 1966, No. 27 (Sp. Sess.), § 2, eff. March 12, 1966; 1967, No. 303 (Adj. Sess.), § 15(b), eff. March 22, 1968; 1981, No. 222 (Adj. Sess.), § 15; 1987, No. 76, § 18.)

§ 954. Operation and maintenance of flood prevention structures

The Department of Environmental Conservation may operate and maintain structures constructed under section 953 of this title or may provide for their operation and maintenance through contracts with natural resources conservation districts or other local organizations. (Amended 1961, No. 100, § 2; 1963, No. 79, § 1(b), eff. May 7, 1963; 1967, No. 303 (Adj. Sess.), § 15(b), eff. March 22, 1968; 1981, No. 222 (Adj. Sess.), § 16; 1987, No. 76, § 18.)

§ 955. Apportionment of State funds

The Department of Environmental Conservation may apportion among districts or agencies State funds available for maintenance and operation. Apportionment of State funds for this purpose by the Department shall be final. (Amended 1961, No. 100, § 2; 1981, No. 222 (Adj. Sess.), § 17; 1987, No. 76, § 18.)

§ 956. Personnel

The Department of Environmental Conservation may, with the approval of the Governor, employ personnel necessary in the performance of its duties and the exercise of its powers under this chapter. (Amended 1961, No. 100, § 2; 1981, No. 222 (Adj. Sess.), § 18; 1987, No. 76, § 18.)

§ 957. State contributions authorized

The Department of Environmental Conservation may pay 100 percent or less of the nonfederal costs of projects under Public Law 83-566 for the following purposes:

(1) Flood prevention.

(2) Public recreation or fish and wildlife development.

(3) Storage for stream flow augmentation for multiple purposes. (1966, No. 27 (Sp. Sess.), § 3, eff. March 12, 1966; amended 1981, No. 222 (Adj. Sess.), § 19; 1987, No. 76, § 18.)

§ 958. Eminent domain; determining necessity

(a) The Commissioner of Environmental Conservation may file a complaint in the Civil Division of the Superior Court for any county in which a portion of the real estate lies to determine that necessity requires that the State acquire real estate within the State, including real estate held for public use in the name of the State or any municipality, for the purpose of flood control projects.

(b) "Necessity" means a reasonable need that considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. It shall not be measured merely by expense or convenience to the condemning party. Due consideration shall be given to the following factors:

(1) The adequacy of other property and locations.

(2) The quantity, kind, and extent of cultivated and agricultural land that may be made unfit for use by the proposed taking. In this connection, the effect on long-range agricultural land use as well as the immediate effect shall be considered.

(3) The effect of the taking upon home and homestead rights and the convenience of the owner of the land.

(4) The effect of the taking upon scenic and recreational values in the areas involved.

(5) The effect upon town grand lists and revenues.

(6) The effect upon fish and wildlife, forests and forest programs, the natural flow of water and the streams both above and below any proposed structure, upon hazards to navigation, fishing, and bathing, and upon other public uses.

(7) Whether the cutting clean and removal of all timber and tree growth from all or any part of any flowage area involved is reasonably required.

(c) The complaint, the service thereof and the proceedings in relation thereto, including rights of appeal, shall conform with and be controlled by 19 V.S.A. chapter 5. (Added 1966, No. 27 (Sp. Sess.), § 4, eff. March 12, 1966; amended 1981, No. 222 (Adj. Sess.), § 20; 1987, No. 76, § 18; 2009, No. 154 (Adj. Sess.), § 236; 2011, No. 126 (Adj. Sess.), § 6.)

§ 959. Repealed. 2011, No. 126 (Adj. Sess.), § 5.

§ 960. Entry authorized

The Commissioner of Environmental Conservation or his or her authorized agents may enter upon any real estate at reasonable times and places for the purpose of making surveys or other investigations under this section, subsection 952(b) and sections 953, 957-958, and 961 of this title. The owners of damaged real estate may recover for damages sustained by reason of the preliminary entry authorized by this section in an action at law against the Commissioner. (Added 1966, No. 27 (Sp. Sess.), § 6, eff. March 12, 1966; amended 1981, No. 222 (Adj. Sess.), § 22; 1987, No. 76, § 18; 2011, No. 126 (Adj. Sess.), § 6.)

§ 961. Construction contracts administered

A sponsoring organization that enters into a project under section 952 of this title may administer construction contracts pertaining to the project, except that the Commissioner of Environmental Conservation may administer those contracts if State funds are involved in the project. (1966, No. 27 (Sp. Sess.), § 7, eff. March 12, 1966; amended 1981, No. 222 (Adj. Sess.), § 23; 1987, No. 76, § 18.)