

# CHAPTER 477

## FLOOD CONTROL AND BEACH EROSION

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## PART I

### STATE ASSISTANCE

Sec. 25-69. Declaration of policy. It is hereby found and declared that, because of the occurrence of severe storms accompanied by winds up to hurricane force, abnormal high tides and tide flooding, the lives and property of residents and other persons within areas exposed to such hazards are endangered, and that, in the interest of public health, safety and general welfare, it is necessary to minimize, and as far as possible to prevent loss of life, property and revenue to municipalities and the state from taxation by the construction of protective works on or near shores and beaches within such areas. As title to the land between high and low watermark is vested in the state, it is further found and declared to be in the public interest to secure such exposed areas by the most economical and effective means for safeguarding life and protecting property and, because it is uneconomical and ineffective for the general purpose for an individual landowner to attempt to maintain protective installations separated from and lacking coextension with those of abutting properties, that it is in the public interest to provide the ways and means for collective and cooperative action to alleviate the dangers and destruction common to such exposed areas. It is further found and declared that because of the recurrence of severe flooding of many of the waterways of the state and their tributaries, taking a huge toll in life and property, extensive flood protection measures must be inaugurated. It is, therefore, found and declared to be in the public interest that encroachment limits along waterways be established and any flood control features at dams and reservoirs, including municipally owned water supply dams and reservoirs, be utilized as a part of the construction and installation of any flood control project.

(1955, S. 2399d; November, 1955, S. N209; P.A. 93-324, S. 2, 4.)

History: P.A. 93-324 amended section to include municipally-owned water supply dams and reservoirs, effective July 1, 1993.

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Sec. 25-70. Exposed areas defined. Land areas fronting on the ocean, or on bays, inlets and coves, or bordering on rivers in which tides occur, that are subject to the full force of storms; or land areas in direct contact with storm waves, including banks, bluffs, cliffs, promontories and headlands or similar topographical or geological formations, that are subject to erosion through wave action; or open beach areas, including spits, dunes and barrier beaches, that are subject to loss of sand through high waves, strong currents or scouring wave action; or land areas subject to inundation during storms or vulnerable to storm damage because of geographical situation, may be classed as exposed areas within the meaning of sections 25-69 to 25-75, inclusive. The limits of such areas shall be the extent of the natural configuration of the land surface not necessarily coextensive with political boundaries, and shall include privately-owned and municipally-owned properties upon which public money may be spent and public debt incurred for the protection and conservation thereof, and taxes levied to support expenditures for such purposes.

(1955, S. 2400d.)

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Sec. 25-71. Payment by state for flood or erosion control systems. The Commissioner of Energy and Environmental Protection is authorized to provide for the payment by the state of the total cost of any flood or erosion control system when such system is for the benefit of state parks or state-owned land. When such system is for the benefit of municipally owned littoral or riparian property or littoral or riparian property held by the municipality under lease for a term not less than twenty-five years, the commissioner is authorized to pay two-thirds of the cost of the system and the remaining one-third shall be the obligation of the local authority. If the project will benefit privately owned littoral or riparian property, the cost shall be prorated on the basis of two-thirds of the total cost to such local authority and one-third of the cost to the state. If the system involves benefit to both municipally owned or leased and private littoral or riparian property, said commissioner shall determine the extent of the financial participation of the state as well as that of the local authority on a shorefront or stream-front percentage basis for each type of property benefited.

(1955, S. 2401d; November, 1955, S. N210; 1957, P.A. 98; 364, S. 29; March, 1958, P.A. 27, S. 45, 46; 1971, P.A. 872, S. 111; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with commissioner of environmental protection; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 25-72. Payment of costs. (a) The cost, or part thereof, of construction of any such system or the local cash contribution required by the federal government for construction of such system may be paid in the first instance by the state from the proceeds of the issuance of bonds or notes as may be authorized from time to time, or from direct appropriations, and upon completion of such construction the local authority shall (1) reimburse the state to the extent of its share provided for in section 25-71; (2) enter into a contract with the state, acting by and through the Commissioner of Energy and Environmental Protection, for state financial assistance for such local authority's share in any beach erosion or flood control system in the form of (A) temporary or definitive loans; (B) guarantees by the state of the notes of any local authority; or (C) any combination of such forms of aid.

(b) Definitive loans made by the state under the authorization of this section (1) shall bear interest at the same rate as the interest cost to the state on the notes or bonds issued pursuant to section 25-73; (2) shall be in an amount not in excess of the cost to such local authority, including any state service charge; and (3) shall be repayable in such installments as are determined by the commission within twenty years from the date of the completion of the system. The provisions of subsection (b) of section 7-374 shall not apply to any bonds or notes

issued by any municipality or district under the provisions of sections 25-69 to 25-75, inclusive, or part II of this chapter.

(1955, S. 2402d; 1957, P.A. 364, S. 30; 1969, P.A. 14, S. 1; 1971, P.A. 872, S. 112; P.A. 11-80, S. 1.)

History: 1969 act rephrased provisions of Subsec. (a) to allow payment of local cash contribution required by federal government from bond issues, to add reference to payment from direct appropriations and to delete specific reference to “bond issue provided for in section 25-73”; 1971 act replaced water resources commission with commissioner of environmental protection in Subsec. (a)(2); pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011.

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Sec. 25-73. State bond issue authorized. The State Treasurer shall issue bonds and notes of the state, in accordance with the provisions of section 3-20, in the sum of five million dollars to be denominated on the face thereof “Beach Erosion and Flood Control Bonds of the State of Connecticut”, or “Beach Erosion and Flood Control Notes of the State of Connecticut”, as the case may be. Four million dollars authorized under this section shall be allocated and expended exclusively for beach erosion control, and the remaining one million dollars thus authorized shall be allocated and expended exclusively for flood control. The full faith and credit of the state is pledged for the payment of the interest on and principal of such bonds. Such bonds shall be sold at not less than par and shall be issued so as to mature at a time or times set by the State Bond Commission. The proceeds from the sale of such bonds and notes shall be used to make the loans authorized in section 25-72, and to defray the share of the state in any beach erosion or flood control system. Payment of the share of such local authority shall be made by the State Treasurer on certification of the commission in accordance with the contract of financial assistance between the state and such local authority. All payments by the local authority shall be paid to the State Treasurer. The principal of, and interest on, such bonds and notes shall first be paid from sums received from such local authorities and then from any sums received from the federal government as reimbursement under section 25-74. If, in any year, said sums are not sufficient, such deficit shall be paid from the General Fund; and if in any year said sums are more than sufficient to meet the principal of the bonds and notes maturing in such year, with interest thereon, the balance shall be applied to the payment of, and principal on, the bonds or notes maturing in any succeeding year or years. The State Treasurer is authorized to invest in direct obligations of the United States of America such moneys as he deems available for such purpose.

(1955, S. 2403d; November, 1955, S. N211; 1957, P.A. 364, S. 31; 645, S. 1; September, 1957, P.A. 16, S. 6.)

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Sec. 25-74. Commissioner to use federal or municipal facilities. Federal funds. The Commissioner of Energy and Environmental Protection is authorized to make arrangements for the use of the facilities and services of the federal government, the municipalities or agencies of the state for the design and construction of such systems. Any funds now available or which may hereafter be appropriated by the federal government to any local authority shall be transferred to the commissioner for the use of the state as reimbursement for the sums expended by it.

(1955, S. 2404d; 1957, P.A. 364, S. 32; 1971, P.A. 872, S. 113; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

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Sec. 25-75. Payment of expenses. Subject to the approval of the State Bond Commission, any expense incurred in connection with entering upon necessary contracts, the rehabilitation of projects constructed under section 25-72 which have been subjected to unusual and unanticipated hurricane and storm damages, and similar expenses, shall be paid from the accrued interest and premiums or from the proceeds of the sale of the bonds and notes authorized by section 25-73 and in the same manner as other obligations of the state of Connecticut.

(1955, S. 2405d; November, 1955, S. N212; 1957, P.A. 364, S. 33; 1961, P.A. 270.)

History: 1961 act included expenses concerning “rehabilitation of projects constructed under Sec. 25-72 which have been subjected to unusual and unanticipated hurricane and storm damages” as expenses to be paid from interest and premiums or proceeds of bonds and notes.

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Sec. 25-76. Small flood control, tidal and hurricane protection and navigation projects; state cooperation with federal and municipal governments. The Commissioner of Energy and Environmental Protection is authorized to negotiate, cooperate and enter into agreements with the federal government and with any municipality through its flood and erosion control board for the purpose of constructing small flood control systems or tidal and hurricane protection and navigation projects including dams, dikes, flood walls, reservoirs, river channel improvements and such other works as are necessary to reduce or prevent damages due to floods, including projects constructed under the provisions of Title 33, Chapter 15, Section 701s, of the United States Code, as amended. The commissioner is authorized to use nonstructural measures of flood control, including but not limited to, acquisition of real property which the commissioner determines is reasonably necessary for use in connection with such systems or projects, by purchase, lease or gift or by condemnation in the manner provided by part I of chapter 835. The commissioner is authorized to give assurances to the federal government that the state will hold and save the United States free from damages due to the construction works and that the state will pay cash contributions as may be required as a local contribution for any flood control system or project undertaken by the federal government or by the state, subject to reimbursement as provided in sections 25-71 and 25-72, except that, for tidal and hurricane protection and navigation projects, such reimbursement shall be not less than fifty per cent.

(1957, P.A. 669, S. 1; 1961, P.A. 592, S. 1; 1969, P.A. 14, S. 2; 1971, P.A. 872, S. 114; P.A. 80-356, S. 1; P.A. 11-80, S. 1.)

History: 1961 act authorized agreements for “tidal and hurricane and navigation projects”; 1969 act authorized water resources commission “to give assurances to the federal government that the state will hold and save the United States free from damages ... and that the state will pay cash contributions” rather than “to give assurances and provide for the payment by the state of such amounts covered by the agreements” and replaced reimbursement, if any, “as the commission may require” under Sec. 25-77 with reimbursement under Secs. 25-71 and 25-72 “except that, for tidal and hurricane protection and navigation projects, such reimbursement shall be not less than fifty per cent”; 1971 act replaced water resources commission with commissioner of environmental protection; P.A. 80-356 authorized commissioner's use of “nonstructural measures of flood control”, including real property acquired by purchase, lease, gift or condemnation; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

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Sec. 25-77. Reimbursement of state by municipalities. Section 25-77 is repealed.

(1957, P.A. 669, S. 2; 1961, P.A. 592, S. 2; 1969, P.A. 14, S. 4.)

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Sec. 25-78. Local contributions. The cost of all local contributions or part thereof for the construction of any projects under the provisions of section 25-76 may be paid in the first instance by the state from the proceeds of the issuance of the bonds or notes as may be authorized from time to time, or from direct appropriation.

(1957, P.A. 669, S. 3; 1969, P.A. 14, S. 3.)

History: 1969 act referred to projects under Sec. 25-76, only where previously Secs. 25-77, 25-78 and 25-79 were also included, and replaced detailed provisions re forms of state financial assistance with general reference to bonds or notes authorized from time to time and direct appropriations.

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Sec. 25-79. State bond issue authorized for small flood control projects. The State Treasurer shall issue bonds and notes of the state, in accordance with the provisions of section 3-20, in the sum of one million two hundred fifty thousand dollars, to be denominated on the face thereof "Small Flood Control Project Bonds of the State of Connecticut", or "Small Flood Control Project Notes of the State of Connecticut", as the case may be. The full faith and credit of the state is pledged for the payment of the interest on and principal of such bonds. Such bonds shall be sold at not less than par and shall be issued so as to mature at a time or times set by the State Bond Commission. The proceeds from the sale of such bonds and notes shall be used to defray the payments provided for in section 25-76.

(1957, P.A. 669, S. 4.)

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Sec. 25-80. State participation in large flood control reservoir construction. Disposal of property interests. The Commissioner of Energy and Environmental Protection is authorized to give assurances satisfactory to the Secretary of the Army as provided in Section 701c, Chapter 15, Title 33 of the United States Code Annotated that the state will (1) provide without cost to the United States all lands, easements and rights-of-way necessary for the construction of any flood control project and pay for the cost of acquisition of earthen material required for the construction of such project, (2) hold and save the United States free from damages due to the construction works, and (3) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army. Said commissioner, in the name of the state, may purchase land or any interest therein, or take the same by right of eminent domain in the manner provided in section 48-12 for the purposes enumerated in subdivision (1) of this section. Said commissioner, with the advice and consent of the Secretary of the Office of Policy and Management, may sell, convey or enter into agreements with persons, firms or corporations or other state agencies for the exchange of any such lands, buildings, easements, rights-of-way or any other property interest real or personal acquired in carrying out the purposes of subdivision (1) of this section for the most appropriate and efficient use and development of such lands, provided any such sale, conveyance or agreement is in no way contrary to the purposes of subdivision (1) of this section.

(1957, P.A. 663, S. 1, 2; 1961, P.A. 20; 1963, P.A. 586; 1971, P.A. 872, S. 115; P.A. 77-614, S. 19, 610; P.A. 07-217, S. 120; P.A. 11-80, S. 1.)

History: 1961 act authorized water resources commission to give assurances that state will pay cost of acquiring "earthen material" necessary for a project; 1963 act added provision re commission's powers to convey real or personal property in connection with flood control projects; 1971 act replaced water resources commission with

commissioner of environmental protection and deleted reference to Sec. 48-16 re taking land by right of eminent domain; P.A. 77-614 replaced commissioner of finance and control with secretary of the office of policy and management; P.A. 07-217 made technical changes, effective July 12, 2007; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 25-81. State bond issue authorized for flood control projects. The State Treasurer shall issue bonds and notes of the state, in accordance with the provisions of section 3-20, in the sum of one million seven hundred fifty thousand dollars to be denominated on the face thereof "Flood Control Project Bonds of the State of Connecticut" or "Flood Control Project Notes of the State of Connecticut", as the case may be. The full faith and credit of the state is pledged for the payment of the interest on and principal of such bonds. Such bonds shall be sold at not less than par and shall be issued so as to mature at a time or times set by the State Bond Commission. The proceeds from the sale of such bonds and notes shall be used to defray the costs to the state required under the provisions of section 25-80.

(1957, P.A. 663, S. 3.)

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Sec. 25-82. Payment of expenses. Subject to the approval of the Finance Advisory Committee, any expense incurred in connection with entering upon necessary contracts, and similar expenses, shall be paid from the accrued interest and premiums or from the proceeds of the sale of the bonds and notes authorized by section 25-81, and in the same manner as other obligations of the state of Connecticut.

(1957, P.A. 663, S. 4.)

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Sec. 25-83. Agreements to indemnify the United States. The Governor, with the approval of the Finance Advisory Committee, is authorized to give assurances that the state will hold and save the United States free from claims or damages resulting from any project or system for the improvement of navigation of any harbor or river or for the protection of life and property against damage by floods, erosion or tidal flooding, including all claims and damages resulting from any reconstruction, repair or maintenance of any such improvement or protection project or system, and to enter into an agreement with the federal government for such purpose.

(1949 Rev., S. 4773; 1957, P.A. 14.)

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Sec. 25-83a. Reimbursement of public service companies for relocation of facilities in connection with flood control projects. Whenever the construction of any flood control project, including its reservoirs, for which the state has agreed to provide the necessary lands, easements and rights-of-way, requires the readjustment, relocation or removal of any public service facility, as defined in section 13a-126, located within, on, along, over or under any land comprising the right-of-way of a public highway, the Commissioner of Energy and Environmental Protection shall issue an appropriate order to the company, corporation or municipality owning or operating such facility, and such company, corporation or municipality shall readjust, relocate or remove the same promptly in accordance with such order, and the cost of such readjustment, relocation or removal, including the cost of installing and constructing a facility of equal capacity in a new location, shall be borne by

the state. In establishing the cost to be borne by the state, there shall be deducted from the cost of the readjusted, relocated or removed facilities a sum based on a consideration of the value of materials salvaged from existing installations, the cost of the original installation, the life expectancy of the original facility and the unexpired term of such life use. When any facility is removed from the right-of-way of a public highway to a private right-of-way, the state shall not pay for such private right-of-way. If the commissioner and the company, corporation or municipality owning or operating such facility cannot agree upon the cost to be borne by the state, either may apply to the superior court for the judicial district within which such highway is situated, or, if said court is not in session, to any judge thereof, for a determination of the cost to be borne by the state, and said court or such judge, after causing notice of the pendency of such application to be given to the other party, shall appoint a state referee to make such determination. Such referee, having given at least ten days' notice to the parties interested of the time and place of the hearing, shall hear both parties, shall view such highway, shall take such testimony as he deems material and shall thereupon determine the amount of the cost to be borne by the state and forthwith report to the court. If the report is accepted by the court, such determination shall, subject to right of appeal as in civil actions, be conclusive upon both parties.

(1961, P.A. 595; 1971, P.A. 872, S. 116; P.A. 78-280, S. 2, 127; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; P.A. 78-280 substituted "judicial district" for "county"; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

See Sec. 22a-321 re reimbursement of public service companies for relocation of facilities.

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## **PART II\***

### **MUNICIPAL FLOOD AND EROSION CONTROL BOARDS**

\*Cited. 1 CA 417.

Sec. 25-84. Municipal flood and erosion control boards. Appointment of alternate members. (a) Any municipality may, by vote of its legislative body, adopt the provisions of this section and sections 25-85 to 25-94, inclusive, and exercise through a flood and erosion control board the powers granted thereunder. In each town, except as otherwise provided by special act, the flood and erosion control board shall consist of not less than five nor more than seven members, who shall be electors of such town and whose method of selection and terms of office shall be determined by local ordinance, except that in towns having a population of less than fifty thousand the selectmen may be empowered by such ordinance to act as such flood and erosion control board. In each city or borough, except as otherwise provided by special act, the board of aldermen, council or other board or authority having power to adopt ordinances for the government of such city or borough may act as such board. The flood and erosion control board of any town shall have jurisdiction over that part of the town outside any city or borough contained therein.

(b) Any town, city or borough shall have the power to provide by ordinance for the appointment or election of three alternate members to its flood and erosion control board. Such alternate members shall, when seated as herein provided, have all the powers and duties set forth for such board and its members. Such alternate members shall be electors of such town, city or borough. If a regular member of any of said board is absent or is disqualified, the chairman of the board shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(1955, S. 2383d; November, 1955, S. N206; 1957, P.A. 13, S. 94; P.A. 76-398, S. 1, 2; P.A. 89-305, S. 29, 32.)

History: P.A. 76-398 replaced provision requiring that flood and erosion control board consist of five members with provision requiring at least five but no more than seven members and added Subsec. (b) re alternate members; P.A. 89-305 amended Subsec. (a) by authorizing towns with less than 50,000, rather than 25,000, to empower selectmen to act as the board.

Cited. 151 C. 307.

Cited. 1 CA 417.

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Sec. 25-85. Establishment of flood or erosion control system. Such board shall have authority, within the limits of appropriations from time to time made by the municipality, to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise and manage a flood or erosion control system. As used in sections 25-84 to 25-94, inclusive, "flood or erosion control system" means any dike, berm, dam, piping, groin, jetty, sea wall, embankment, revetment, tide-gate, water storage area, ditch, drain or other structure or facility useful in preventing or ameliorating damage from floods or erosion, whether caused by fresh or salt water, or any dam forming a lake or pond that benefits abutting properties, and shall include any easements, rights-of-way and riparian rights which may be required in furtherance of any such system.

(1955, S. 2384d; November, 1955, S. N207; June Sp. Sess. P.A. 83-38, S. 4.)

History: June Sp. Sess. P.A. 83-38 provided that the definition of flood or erosion control system includes dams.

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Sec. 25-86. Taking of property. Such board is authorized to enter upon and to take and hold, by purchase, condemnation or otherwise, any real property or interest therein which it determines is necessary for use in connection with the flood or erosion control system. Whenever the board is unable to agree with the owner of any such property as to the compensation to be paid for the taking thereof, the board, in the name of the municipality, may bring condemnation proceedings in accordance with the procedure provided by part I of chapter 835 for condemnation by municipal corporations generally. In such case, the court or judge may permit immediate possession of such property by the board in accordance with the procedure provided by said chapter.

(1955, S. 2385d.)

Cited. 151 C. 312.

Cited. 1 CA 417.

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Sec. 25-87. Bond issue authorized. Assessments. At any time after voting to acquire, construct or reconstruct any flood or erosion control system or portion thereof, the board in its discretion may elect to defray the cost thereof by issuing bonds or other evidences of debt, or from general taxation, special assessment or any combination thereof. If it elects to defray any part of such cost from special assessment, it may apportion and assess such part upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby, whether they abut on such flood or erosion control system or not, and upon the owners of such lands and buildings, subject to the right of appeal as hereinafter provided. Such assessment may include a proportionate share of any expenses incidental to the completion of such flood or erosion control system, such as fees and expenses of attorneys, engineers, surveyors, superintendents or inspectors, the cost of any property purchased or

acquired for such work, interest on securities, the cost of preparing maps, plans and specifications, and the cost of printing, publishing or serving advertisements or notices incidental thereto. The board may divide the total territory to be benefited by any flood or erosion control system into sections and may levy assessments against the property benefited in each section separately. In assessing benefits against the property in any section, the board may add to the cost of the part of the flood or erosion control system located in such section a proportionate share of the cost of any part of such system located outside the section which is useful for the operation or effectiveness of that part of such system within the section and of any of the other items of cost or expense above enumerated.

(1955, S. 2386d.)

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Sec. 25-88. Method of assessment. Whenever any assessment is made as herein provided, the amount to be raised thereby shall be apportioned among the properties benefited according to such rule as the board may adopt, based upon area, street frontage, assessed valuation of the land in the last-completed grand list of the municipality, the present or permitted use of any real property in the section, or any combination of these or other relevant factors. The board may make reasonable allowances when for any reason the particular condition or situation of any property requires such allowance. No benefits shall be assessed against any property in excess of the special benefit to accrue to such property. Assessments under this part shall be made subject to the provisions of sections 7-139 to 7-145, inclusive.

(1955, S. 2387d.)

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Sec. 25-89. New and supplementary assessments. If any assessment is not valid or enforceable for any reason, a new assessment may be made in the manner hereinbefore provided for the determination of the original assessment. If any assessment is made which is not sufficient to cover the entire cost of the work to be paid for by such assessment, a supplementary assessment may be made by the board against those properties previously assessed, to the end that a sum sufficient to pay the cost of such work may be obtained, provided the total of such supplementary assessment and the original assessment shall not exceed the value of the special benefit to accrue to the property against which the benefit is assessed.

(1955, S. 2388d.)

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Sec. 25-90. Assessment due date. Notice. Assessments shall be due and payable at such time as may be fixed by the board, provided no assessment shall become due until the work, or particular portion thereof for which such assessment was levied, has been completed. The board shall give notice of the date when such assessments are due and payable by publication at least twice within a period of fifteen days in a newspaper having a circulation in the municipality, listing the streets and describing the area within which are located the properties against which assessments are due. Such notice shall state the date when such assessments are due and payable, which date shall be more than thirty and less than sixty days after the date of the first such publication.

(1955, S. 2389d.)

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Sec. 25-91. Installment payment of assessments. The board may provide for the payment of such assessments in such number of substantially equal annual installments, not exceeding twenty, as it determines, and may provide for interest charges on any deferred payments. Any person who has elected to pay his assessment in more than one installment may make payment at any time in full of the whole or such part of such assessment as still remains unpaid.

(1955, S. 2390d.)

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Sec. 25-92. Segregation and use of assessment funds. The proceeds of such assessments, whether or not pledged for the payment of securities, shall be segregated from other funds of the municipality and shall be used only to pay for the construction or reconstruction of the flood or erosion control system or particular portion thereof in respect to which such assessments are made or, as the case may be, for the payment of the interest on or principal of any securities issued to pay for such system or particular portion thereof.

(1955, S. 2391d.)

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Sec. 25-93. Delinquent payments. Any assessment against benefited property not paid within thirty days of the due date shall thereupon be delinquent and shall be subject to interest from the due date at the same interest rate and in the same manner as provided by the general statutes in the case of delinquent taxes, provided, in the case of an assessment payable in installments, interest shall be computed on the entire unpaid balance of such assessment from the due date of the last installment which was paid, or from the due date of the assessment if no previous installment has been paid. Each addition of interest shall become, and be collectible as, a part of such assessment. Whenever any installment of an assessment becomes delinquent, any remaining unpaid installments of such assessment shall also become delinquent; provided, if all past due installments, together with interest and any other charges, have been paid in full, remaining installments may be paid without additional penalty, except for subsequent default, in accordance with the original installment schedule.

(1955, S. 2392d.)

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Sec. 25-94. Agreements concerning navigation and flood or erosion control. Any flood and erosion control board established under section 25-84, any such board or commission established by special act or any district having as one of its powers and purposes the right to construct or maintain a flood and erosion control system under chapter 105, acting through its officers, is authorized to negotiate, cooperate and enter into agreements with (1) the United States, (2) the United States and the state of Connecticut, or (3) the state of Connecticut in order to satisfy the conditions imposed by the United States or the state of Connecticut in authorizing any system for the improvement of navigation of any harbor or river and for protection of property against damage by floods or by erosion, provided such system shall have been approved by the Commissioner of Energy and Environmental Protection.

(1949 Rev., S. 4770; 1955, S. 2393d; 1957, P.A. 364, S. 26; 1971, P.A. 872, S. 117; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 25-95. Agreements of state and local authorities. The state, acting through the Commissioner of Energy and Environmental Protection, may enter into agreements with such local authority authorized to contract under section 25-94 for the purpose of constructing projects or systems to prevent, correct and arrest erosion and flood damage within the boundaries of the state. The plans, specifications, system and construction shall be under the direct control and supervision of the commissioner. The contract shall describe (1) the nature and extent of the system, (2) the amount of the cost to the state, (3) the share to be paid by the district or board, and (4) the method of financing the payment by such local authority, all of which shall be subject to the approval of the commissioner.

(1955, S. 2395d; 1957, P.A. 364, S. 27; 1971, P.A. 872, S. 118; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 25-96. Attorney General to approve agreements. Assistance furnished at local expense. All contracts and agreements which the state may enter into shall be approved as to form by the Attorney General. The commissioner is authorized to furnish, at the request and expense of such local authority authorized to contract under section 25-94, such technical advice consisting of plans, specifications, surveys, cost estimates, engineering and inspection services as such local authority deems advisable. If such local authority enters into a contract with the commissioner for the construction of a system, such expense shall be deemed part of the cost of construction.

(1955, S. 2396d; 1971, P.A. 872, S. 119.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner.

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Sec. 25-97. Joint projects of two or more municipalities. When any such improvement or protection project or system is located within two or more municipalities, such municipalities, acting by their flood and erosion control boards, are authorized to undertake jointly any such action as is authorized by sections 25-94 and 25-95, and the cost to each board shall be determined by the Commissioner of Energy and Environmental Protection.

(1949 Rev., S. 4771; 1955, S. 2397d; 1957, P.A. 364, S. 28; 1971, P.A. 872, S. 120; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 25-98. Acceptance of gifts. In carrying out the purposes for which it was established, any local authority authorized to contract under section 25-94 may accept, receive and expend gifts, devises or bequests of money, lands or other properties to be applied and expended in the manner provided herein.

(1955, S. 2398d.)

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## **PART III**

### **CONNECTICUT RIVER VALLEY FLOOD CONTROL COMMISSION**

Sec. 25-99. Connecticut River Flood Control Compact. Approval is hereby given to a compact in the following form:

#### **CONNECTICUT RIVER FLOOD CONTROL COMPACT**

Whereas, the federal government exercises jurisdiction over the nation's navigable rivers and their tributaries through passage of the flood control act of nineteen hundred and thirty-six and various other acts amendatory thereto; and

Whereas, these acts provide for construction by the United States of dams for flood control and, where feasible, in addition to flood control for storage of water to be used for irrigation, recreation or hydroelectric power or for any of these purposes; and

Whereas, the Connecticut is an interstate river and control of major floods on it can be obtained only by the construction of dams by the United States under authorization of the above mentioned acts; and

Whereas, the Commonwealth of Massachusetts and the States of Connecticut, New Hampshire and Vermont recognize that it is in the interest of their general welfare that the United States construct in the Connecticut River Valley a comprehensive system of local protection works and dams and reservoirs to control floods and prevent loss of life and property, the disruption of orderly processes and the impairment of commerce between the aforesaid states; and

Whereas, the United States has constructed dikes, flood walls and other local protection works at Hartford and East Hartford in the State of Connecticut and at Springfield, Riverdale, West Springfield, Chicopee, Northampton, Holyoke, and Springdale, in the Commonwealth of Massachusetts and dams and reservoirs for the storage of flood waters at Knightville, Birch Hill and Tully in the Commonwealth of Massachusetts, at Surry Mountain in the State of New Hampshire and at Union Village in the State of Vermont and has reached agreements with the state wherein located for construction of dams and reservoirs for the storage of flood waters at Barre Falls in the Commonwealth of Massachusetts and at Ball Mountain and at Townshend in the State of Vermont; and

Whereas, the Congress has at various times authorized construction by the United States of other dams and reservoirs for the storage of flood waters in the Commonwealth of Massachusetts and in the States of New Hampshire and Vermont and has more recently instructed the corps of engineers to determine what additional local protection works and dams and reservoirs are required for a comprehensive system to control floods in the Connecticut River and its tributaries; and

Whereas, it is believed that such a comprehensive flood control system should include dams and reservoirs controlling flood runoff from approximately twenty-five per cent of the total drainage area of the Connecticut River above Hartford, Connecticut, and strategically located in reference to characteristics of tributaries and to damage centers; and

Whereas, construction by the United States of additional dams and reservoirs in the Commonwealth of Massachusetts and in the States of New Hampshire and Vermont, to complete such a comprehensive flood control system, will remove from the tax rolls of local governments of those states such property as is acquired

by the United States and may work other hardships against the people of Massachusetts, New Hampshire and Vermont; and

Whereas, it is highly desirable that any flood control dam and reservoir constructed by the United States in the Connecticut River Valley have the approval of the state wherein it is located and that states benefiting from construction of such dam and reservoir make reimbursement for such loss of taxes and for such hardships; and

Whereas, a comprehensive system for the prevention of destructive floods and for water resources utilization in the Connecticut River Valley can best be accomplished by cooperation between the several states in the valley and by and through a common and joint agency of said several states;

Now, therefore, the said Commonwealth of Massachusetts and States of Connecticut, New Hampshire and Vermont do hereby enter into the following compact, to-wit:

## ARTICLE I

The principal purposes of this compact are: (a) To promote interstate comity among and between the signatory states; (b) to assure adequate storage capacity for impounding the waters of the Connecticut River and its tributaries for the protection of life and property from floods; (c) to provide a joint or common agency through which the signatory states, while promoting, protecting and preserving to each the local interest and sovereignty of the respective signatory states, may more effectively cooperate in accomplishing the object of flood control and water resources utilization in the basin of the Connecticut River and its tributaries.

## ARTICLE II

There is hereby created "The Connecticut River Valley Flood Control Commission", hereinafter referred to as the "commission", which shall consist of twelve members, three of whom shall be residents of the Commonwealth of Massachusetts; three of whom shall be residents of the State of Connecticut; three of whom shall be residents of the State of New Hampshire; and three of whom shall be residents of the State of Vermont.

The members of the commission shall be chosen by their respective states in such manner and for such terms as may be fixed and determined from time to time by the law of each of said states respectively by which they are appointed. A member of the commission may be removed or suspended from office as provided by the law of the state for which he shall be appointed, and any vacancy occurring in the commission shall be filled in accordance with the laws of the state wherein such vacancy exists.

A majority of the members from each state shall constitute a quorum for the transaction of business, the exercise of any of its powers or the performance of any of its duties, but no action of the commission shall be binding unless at least two of the members from each state shall vote in favor thereof.

The compensation of members of the commission shall be fixed, determined, and paid by the state which they respectively represent. All necessary expenses incurred in the performance of their duties shall be paid from the funds of the commission.

The commission shall elect from its members a chairman, vice-chairman, clerk and treasurer. Such treasurer shall furnish to the commission, at its expense, a bond with corporate surety, to be approved by the commission, in such amount as the commission may determine, conditioned for the faithful performance of his duties.

The commission shall adopt suitable bylaws and shall make such rules and regulations as it may deem advisable not inconsistent with laws of the United States, of the signatory states or with any rules or regulations lawfully promulgated thereunder.

The commission shall make an annual report to the governor and legislature of each of the signatory states, setting forth in detail the operations and transactions conducted by it pursuant to this compact.

The commission shall keep a record of all its meetings and proceedings, contracts and accounts, and shall maintain a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times and under such regulations as the commission shall determine.

### ARTICLE III

The commission shall constitute a body, both corporate and politic, with full power and authority: (1) To sue and be sued; (2) to have a seal and alter the same at pleasure; (3) to appoint and employ such agents and employees as may be required in the proper performance of the duties hereby committed to it and to fix and determine their qualifications, duties and compensation; (4) to enter into such contracts and agreements and to do and perform any and all other acts, matters and things as may be necessary and essential to the full and complete performance of the powers and duties hereby committed to and imposed upon it and as may be incidental thereto; (5) to have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of any of said states, concurred in by the legislatures of the other states and by the Congress of the United States.

The commission shall make, or cause to be made, such studies as it may deem necessary, in cooperation with the corps of engineers and other federal agencies, for the development of a comprehensive plan for flood control and for utilization of the water resources of the Connecticut River Valley.

The commission shall not pledge the credit of the signatory states or any of them.

### ARTICLE IV

The signatory state wherein is located the site of each of the following dams and reservoirs agrees to the construction by the United States of each such dam and reservoir in accordance with authorization by the Congress:

In the Commonwealth of Massachusetts,

(1) At Barre Falls on the Ware River controlling a drainage area of approximately fifty-seven (57) square miles and providing flood storage of approximately eight (8) inches of runoff from said drainage area.

In the State of Vermont,

(1) At West Townshend on the West River controlling a net drainage area of approximately one hundred six (106) square miles and providing flood control storage of approximately six (6) inches of runoff from said drainage area.

(2) At Ball Mountain on the West River controlling a net drainage area of approximately one hundred thirty-two (132) square miles and providing flood control storage of approximately six (6) inches of runoff from said drainage area.

(3) At North Hartland on the Ottauquechee River controlling a drainage area of approximately two hundred twenty-two (222) square miles and providing flood control storage for approximately six (6) inches of runoff from said drainage area.

(4) At Groton Pond on the Wells River controlling a drainage area of approximately seventeen and three-tenths (17.3) square miles and providing flood control storage for approximately eight (8) inches of runoff from said drainage area.

(5) At Victory on the Moose River controlling a drainage area of approximately sixty-six (66) square miles and providing flood control storage for approximately seven (7) inches of runoff from said drainage area.

(6) In Bloomfield on the Nulhegan River controlling a drainage area of approximately seventy (70) square miles and providing flood control storage for approximately nine (9) inches of runoff from said drainage area.

In the State of New Hampshire,

- (1) At South Keene on the Otter Brook, tributary of the Ashuelot River, controlling a drainage area of approximately forty-seven (47) square miles and providing flood control storage for approximately seven (7) inches of runoff from said drainage area.
- (2) At Walpole on the Cold River controlling a drainage area of approximately one hundred one (101) square miles and providing flood control storage for approximately eight (8) inches of runoff from said drainage area.
- (3) At Bethlehem Junction on the Ammonoosuc River controlling a drainage area of approximately ninety (90) square miles and providing flood control storage for approximately six (6) inches of runoff from said drainage area.
- (4) At Franconia Junction on the Ammonoosuc River controlling a drainage area of approximately thirty (30) square miles and providing flood control storage for approximately eight (8) inches of runoff from said drainage area.
- (5) At Swift Water on the Wild Ammonoosuc River controlling a drainage area of approximately fifty-seven (57) square miles and providing flood control storage for approximately ten (10) inches of runoff from said drainage area.

#### ARTICLE V

The Commonwealth of Massachusetts agrees to reimburse the State of New Hampshire fifty (50) per cent and the State of Vermont fifty (50) per cent of the amount of taxes lost to their political subdivisions by reason of ownership by the United States of lands, rights or other property therein for the flood control dams and reservoirs at Surry Mountain in New Hampshire and at Union Village in Vermont.

The State of Connecticut agrees to reimburse the Commonwealth of Massachusetts forty (40) per cent, the State of New Hampshire forty (40) per cent and the State of Vermont forty (40) per cent of the amount of taxes lost to the political subdivisions by reason of ownership by the United States of lands, rights or other property therein for the flood control dams and reservoirs at Tully, at Knightville and at Birch Hill in Massachusetts, at Surry Mountain in New Hampshire and at Union Village in Vermont.

The Commonwealth of Massachusetts agrees to reimburse the State of New Hampshire fifty (50) per cent and the State of Vermont fifty (50) per cent of the amount of taxes lost to their political subdivisions by reason of acquisition and ownership by the United States of lands, rights or other property therein for construction in the future of any flood control dam and reservoir specified in Article IV and also for any other flood control dam and reservoir hereafter constructed by the United States in the Connecticut River Valley.

The State of Connecticut agrees to reimburse the Commonwealth of Massachusetts forty (40) per cent, the State of New Hampshire forty (40) per cent and the State of Vermont forty (40) per cent of the amount of taxes lost to their political subdivisions by reason of acquisition and ownership by the United States of lands, rights or other property therein for construction in the future of any flood control dam and reservoir specified in Article IV and also for any other flood control dam and reservoir hereafter constructed by the United States in the Connecticut River Valley.

Annually, not later than November first of each year, the commission shall determine the loss of taxes resulting to political subdivisions of each signatory state by reason of acquisition and ownership therein by the United States of lands, rights or other property in connection with each flood control dam and reservoir for which provision for tax reimbursement has been made in the four paragraphs next above. Such losses of taxes as determined by the commission shall be based on the tax rate then current in each such political subdivision and on the average assessed valuation for a period of five years prior to the acquisition by the United States of such property, provided that whenever a political subdivision wherein a flood control dam and reservoir or portion thereof is located shall have made a general revaluation of property subject to the annual municipal taxes of such

subdivision, the commission may use such revaluation for the purpose of determining the amount of taxes for which reimbursement shall be made. Using the percentage of payment agreed to in said four paragraphs, the commission shall then compute the sum, if any, due from each signatory state to each other signatory state and shall send a notice to the treasurer of each signatory state setting forth in detail the sums, if any, each is to pay to and to receive from each other signatory state in reimbursement of tax losses.

Each signatory state on receipt of formal notification from the commission of the sum which it is to pay in reimbursement for tax losses shall, not later than July first of the following year, make its payment for such tax losses to the signatory state wherein such loss or losses occur, except that in case of the first annual payment for tax losses at any dam or reservoir such payment shall be made by payor states not later than July first of the year in which the next regular session of its legislature is held.

Payment by a signatory state of its share of reimbursement for taxes in accordance with formal notification received from the commission shall be a complete and final discharge of all liability by the payor state to the payee state for each flood control dam and reservoir within the payee state for the time specified in such formal notification. Each payee signatory state shall have full responsibility for distributing or expending all such sums received, and no agency or political subdivision shall have any claim against any signatory state other than the payee state, nor against the commission relative to tax losses covered by such payments.

Whenever a state which makes reimbursement for tax losses and a state which receives such reimbursement from it shall agree, through the commission, on a lump sum payment in lieu of annual payments and such lump sum payment has been made and received, the requirement that the commission annually shall determine the tax losses, compute sums due from each state and send notice thereof to the treasurer of each state shall no longer apply to the aforesaid states with respect to any flood control dam and reservoir for which lump sum payment has been made and received.

The Commonwealth of Massachusetts and the State of Connecticut each agrees to pay its respective share in reimbursement, as determined by the commission under the procedure following, for economic losses and damages occurring by reason of ownership of property by the United States for construction and operation of a flood control dam and reservoir at any site specified in Article IV, and for any other flood control dam and reservoir constructed hereafter by the United States in the Connecticut River Valley, provided, however, that no reimbursement shall be made for speculative losses and damages or losses or damages for which the United States is liable.

On receipt of information from the chief of engineers that request is to be made for funds for the purpose of preparing detailed plans and specifications for any flood control dam and reservoir proposed to be constructed in the Connecticut River Valley, including those specified in Article IV, the commission shall make an estimate of the amount of taxes which would be lost to and of economic losses and damages which would occur in political subdivisions of the signatory state wherein such dam and reservoir would be located, wholly or in part, by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such flood control dam and reservoir and shall decide whether the flood control benefits to be derived in the signatory states from such flood control dam and reservoir, both by itself and as a unit of a comprehensive flood control plan, justifies, in the opinion of the commission, the assumption by signatory states of the obligation to make reimbursement for loss of taxes and for economic losses and damages. Such estimate and decision shall thereafter be reviewed by the commission at five-year intervals until such time as the United States shall have acquired title to the site of such flood control dam or plans for its construction are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state and the chief of engineers as to the commission's decision and as to any change in such decision.

On receipt of information from the chief of engineers that any flood control dam and reservoir is to be constructed, reconstructed, altered or used for any purpose in addition to flood control, including those flood control dams and reservoirs heretofore constructed and those specified in Article IV, the commission shall make a separate estimate of the amount of taxes which would be lost to and of economic losses and damages which would occur in political subdivisions of the signatory state wherein such dam and reservoir would be located,

wholly or in part, by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such dam and reservoir in excess of the estimated amount of taxes which would be lost and of the economic losses and damages which would occur if the dam were constructed and operated for flood control only and the commission shall decide the extent to which, in its opinion, the signatory states would be justified in making reimbursement for loss of taxes and for economic losses and damages in addition to reimbursement for such dam and reservoir if constructed and used for flood control only. Such estimate and decision shall thereafter be reviewed by the commission at five-year intervals until such time as such dam and reservoir shall be so constructed, reconstructed, altered or used or plans for such construction, reconstruction, alteration or use are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state as to the commission's decision and as to any change in such decision.

Within thirty days after acquisition by the United States of the site of any flood control dam the commission shall proceed to make a final determination of economic losses and damages occasioned by such dam and reservoir. The commission shall not include in such determination either speculative losses and damages or losses and damages for which the United States is liable.

The commission shall compute the share the Commonwealth of Massachusetts and the State of Connecticut shall each pay to the state wherein such dam and reservoir is located by multiplying the sum of such losses and damages, as previously determined, by the percentage of flood control benefits which the Commonwealth of Massachusetts and the State of Connecticut each receives, in the allocation by states, of the flood control benefits resulting from the dam and reservoir.

The commission shall send a notice to the treasurer of the Commonwealth of Massachusetts and to the treasurer of the State of Connecticut setting forth in detail the sum, if any, each is to pay to the state wherein such dam and reservoir is located in reimbursement for economic losses and damages and shall also send such notice to the treasurer of the state wherein such dam and reservoir is located.

The Commonwealth of Massachusetts and the State of Connecticut on receipt of such formal notification by the commission shall each pay its share of such economic losses or damages to the signatory states wherein such losses or damages occur. Full payment by either state of the sum specified in such formal notification from the commission as to the amount of economic losses and damages for which such state is to make reimbursement shall be a complete and final discharge of all liability by the payor state to the payee state for economic losses and damages for each flood control dam and reservoir within the payee state designated in such formal notification. Each payee signatory state shall have full responsibility for distributing or expending all such sums received and no agency, political subdivision, private person, partnership, firm, association or corporation shall have any claim against any signatory state other than the payee state, nor against the commission relative to such economic losses and damages.

A signatory state may, in agreement with the commission and the chief of engineers, acquire title or option to acquire title to any or all lands, rights or other property required for any flood control dam and reservoir within its boundaries and transfer such titles or options to the United States. Whenever the fair cost to said signatory state for such titles or options, as determined by the commission, is greater than the amount received therefor from the United States, the Commonwealth of Massachusetts and the State of Connecticut shall each pay its share of such excess cost to said signatory state, such share to be determined by the commission in accordance with procedure herein contained for determining reimbursement for economic losses and damages.

Whenever the commission shall not agree, within a reasonable time or within sixty days after a formal request from the governor of any signatory state, concerning reimbursement for loss of taxes or for economic losses and damages at any flood control dam and reservoir heretofore or hereafter constructed by the United States in the Connecticut River Valley, or concerning the extent, if any, to which reimbursement shall be made for additional loss of taxes and for additional economic losses and damages caused by construction, reconstruction, alteration or use of any such dam for purposes other than flood control, the governor of each signatory state shall designate a person from his state as a member of a board of arbitration, hereinafter called the board, and the members so designated shall choose one additional member who shall be chairman of such board. Whenever the members

appointed by the governors to such board shall not agree within sixty days on such additional member of the board, the governors of such signatory states shall jointly designate the additional member. The board shall by majority vote decide the question referred to it and shall do so in accordance with the provisions of this compact concerning such reimbursement. The decision of the board on each question referred to it concerning reimbursement for loss of taxes and for economic losses and damages shall be binding on the commission and on each signatory state, notwithstanding any other provision of this compact.

#### ARTICLE VI

Nothing contained in this compact shall be construed as a limitation upon the authority of the United States.

#### ARTICLE VII

The signatory states agree to appropriate for compensation of agents and employees of the commission and for office, administrative, travel and other expenses on recommendation of the commission subject to limitations as follows: The Commonwealth of Massachusetts obligates itself to not more than seventy-five hundred (7500) dollars in any one year, the State of New Hampshire obligates itself to not more than one thousand (1000) dollars in any one year, the State of Vermont obligates itself to not more than one thousand (1000) dollars in any one year and the State of Connecticut obligates itself to not more than seventy-five hundred (7500) dollars in any one year.

#### ARTICLE VIII

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts thereof shall continue to be in full force and effect.

#### ARTICLE IX

This compact shall become operative and effective when ratified by the Commonwealth of Massachusetts and the States of New Hampshire, Vermont and Connecticut and approved by the Congress of the United States. Notice of ratification shall be given by the governor of each state to the governors of the other states and to the President of the United States, and the President of the United States is requested to give notice to the governors of each of the signatory states of approval by the Congress of the United States.

(1951, S. 1940d; P.A. 98-40.)

History: P.A. 98-40 amended Article VII to increase the state's appropriation for the commission from \$6,500 to \$7,500 per year.

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Sec. 25-100. Commissioners; appointment; terms; vacancy. There shall be three members of the Connecticut River Valley Flood Control Commission appointed from this state. On or before May first in the odd-numbered years the Governor, with the advice and consent of the senate, shall appoint one member of said commission whose term of office shall be for six years commencing the first day of July following his appointment and until his successor is appointed and has qualified. Such appointees shall act as commissioners for the state of Connecticut to execute, with representatives of the commonwealth of Massachusetts and the states of New Hampshire and Vermont, the Connecticut River Flood Control Compact and shall have the powers and duties provided in the compact. Any vacancy in the membership of the commission from Connecticut shall be filled by the Governor for the unexpired portion of the term.

(1949, 1951, S. 1941d.)

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## PART IV

### THAMES RIVER VALLEY FLOOD CONTROL COMMISSION

Sec. 25-101. Thames River Valley Flood Control Compact. The Governor on behalf of this state is authorized to enter into a compact, substantially in the following form, with the Commonwealth of Massachusetts:

#### ARTICLE I

The principal purposes of this compact are: (a) To promote interstate comity among and between the signatory states; (b) to assure adequate storage capacity for impounding the waters of the Thames River and its tributaries for the protection of life and property from floods; (c) to provide a joint or common agency through which the signatory states, while promoting, protecting and preserving to each the local interest and sovereignty of the respective signatory states, may more effectively cooperate in accomplishing the object of flood control and water resources utilization in the basin of the Thames River and its tributaries.

#### ARTICLE II

There is hereby created “The Thames River Valley Flood Control Commission”, hereinafter referred to as the “commission”, which shall consist of six members, three of whom shall be residents of the Commonwealth of Massachusetts; three of whom shall be residents of the State of Connecticut.

The members of the commission shall be chosen by their respective states in such manner and for such terms as may be fixed and determined from time to time by the law of each of said states respectively by which they are appointed. A member of the commission may be removed or suspended from office as provided by the law of the state for which he shall be appointed, and any vacancy occurring in the commission shall be filled in accordance with the laws of the state wherein such vacancy exists.

A majority of the members from each state shall constitute a quorum for the transaction of business, the exercise of any of its powers or the performance of any of its duties, but no action of the commission shall be binding unless at least two of the members from each state shall vote in favor thereof.

The compensation of members of the commission shall be fixed, determined, and paid by the state which they respectively represent. All necessary expenses incurred in the performance of their duties shall be paid from the funds of the commission.

The commission shall elect from its members a chairman, vice-chairman, and a clerk-treasurer. Such clerk-treasurer shall furnish to the commission, at its expense, a bond with corporate surety, to be approved by the commission, in such amount as the commission may determine, conditioned for the faithful performance of his duties.

The commission shall adopt suitable bylaws and shall make such rules and regulations as it may deem advisable not inconsistent with laws of the United States, of the signatory states or with any rules or regulations lawfully promulgated thereunder.

The commission shall make an annual report to the governor and legislature of each of the signatory states, setting forth in detail the operations and the transactions conducted by it pursuant to this compact.

The commission shall keep a record of all its meetings and proceedings, contracts and accounts, and shall maintain a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times and under such regulations as the commission shall determine.

#### ARTICLE III

The commission shall constitute a body, both corporate and politic, with full power and authority:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To appoint and employ such agents and employees as may be required in the proper performance of the duties hereby committed to it and to fix and determine their qualifications, duties and compensation;
- (4) To enter into such contracts and agreements and to do and perform any and all other acts, matters and things as may be necessary and essential to the full and complete performance of the powers and duties hereby committed to and imposed upon it and as may be incidental thereto;
- (5) To have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of either of said states, concurred in by the legislature of the other state and by the Congress of the United States.

The commission shall make, or cause to be made, such studies as it may deem necessary, in cooperation with the Corps of Engineers, United States Army, and other federal agencies, for the development of a comprehensive plan for flood control and for utilization of the water resources of the Thames River Valley.

The commission shall not pledge the credit of the signatory states or either of them.

#### ARTICLE IV

The Commonwealth of Massachusetts wherein is located the site of each of the following dams and reservoirs agrees to the construction by the United States of each such dam and reservoir in accordance with authorization by the Congress:

- (1) At East Brimfield on the Quinebaug River controlling a drainage area of approximately sixty-seven (67) square miles and providing flood storage of approximately eight (8) inches of runoff from said drainage area.
- (2) At Buffumville on the Little River controlling a net drainage area of approximately twenty-six (26) square miles and providing flood control storage of approximately eight (8) inches of runoff from said drainage area.
- (3) At Hodges Village on the French River controlling a drainage area of approximately thirty (30) square miles and providing flood control storage for approximately eight (8) inches of runoff from said drainage area.
- (4) At Westville on the Quinebaug River controlling a drainage area of approximately ninety (90) square miles and providing flood control storage for approximately two and five tenths (2.5) inches of runoff from said drainage area.

#### ARTICLE V

The State of Connecticut agrees to reimburse the Commonwealth of Massachusetts forty (40) per cent of the amount of taxes lost to their political subdivisions by reason of acquisition and ownership by the United States of lands, rights or other property therein for construction in the future of any flood control dam and reservoir specified in Article IV and also for any other flood control dam and reservoir hereafter constructed by the United States in the Thames River Valley in Massachusetts.

Annually, not later than November first of each year, the commission shall determine the loss of taxes resulting to political subdivisions of the Commonwealth of Massachusetts by reason of acquisition and ownership therein by the United States of lands, rights or other property in connection with each flood control dam and reservoir for which provision for tax reimbursement has been made in the paragraph next above. Such losses of taxes as determined by the commission shall be based on the tax rate then current in each such political subdivision and on the average assessed valuation for a period of five years prior to the acquisition by the United States of the

site of the dam for such reservoir, provided that whenever a political subdivision wherein a flood control dam and reservoir or portion thereof is located shall have made a general revaluation of property subject to the annual municipal taxes of such subdivisions, the commission may use such revaluation for the purpose of determining the amount of taxes for which reimbursement shall be made. Using the percentage of payment agreed to in this Article, the commission shall then compute the sum, if any, due from the State of Connecticut to the Commonwealth of Massachusetts and shall send a notice to the treasurer of each signatory state setting forth in detail the sum, if any, Connecticut is to pay and Massachusetts is to receive in reimbursement of tax losses.

The State of Connecticut on receipt of formal notification from the commission of the sum which it is to pay in reimbursement for tax losses shall, not later than July first of the following year, make its payment for such tax losses to the Commonwealth of Massachusetts wherein such loss or losses occur, except that in case of the first annual payment for tax losses at any dam or reservoir such payment shall be made by the State of Connecticut not later than July first of the year in which the next regular session of its legislature is held.

Payment by the State of Connecticut of its share of reimbursement for taxes in accordance with formal notification received from the commission shall be a complete and final discharge of all liability by the state to the Commonwealth of Massachusetts for each flood control dam and reservoir within that state for the time specified in such formal notification. The Commonwealth of Massachusetts shall have full responsibility for distributing or expending all such sums received, and no agency or political subdivision of the Commonwealth shall have any claim against the State of Connecticut or against the commission relative to tax losses covered by such payments.

The two states may agree, through the commission, on a lump sum payment in lieu of annual payments and when such lump sum payment has been made and received, the requirement that the commission annually shall determine the tax losses, compute sums due and send notice thereof to the treasurer of each state shall no longer apply with respect to any flood control dam and reservoir for which lump sum payment has been made and received.

On receipt of information from the Chief of Engineers, United States Army, that request is to be made for funds for the purpose of preparing detailed plans and specifications for any flood control dam and reservoir proposed to be constructed in the Thames River Valley in Massachusetts, including those specified in Article IV, the commission shall make an estimate of the amount of taxes which would be lost to the political subdivisions of that state by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such flood control dam and reservoir and shall decide whether the flood control benefits to be derived from such flood control dam and reservoir, both by itself and as a unit of a comprehensive flood control plan, justifies, in the opinion of the commission, the assumption by Connecticut of the obligation to make reimbursement for loss of taxes. Such estimate and decision shall thereafter be reviewed by the commission at five-year intervals until such time as the United States shall have acquired title to the site of such flood control dam or plans for its construction are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state and the chief of engineers as to the commission's decision and as to any change in such decision.

On receipt of information from the Chief of Engineers that any flood control dam and reservoir is to be constructed, reconstructed, altered, or used for any purpose in addition to flood control, including those flood control dams and reservoirs heretofore constructed and those specified in Article IV, the commission shall make a separate estimate of the amount of taxes which would be lost to the political subdivisions of the Commonwealth of Massachusetts by reason of acquisition and ownership by the United States of lands, rights or other property for construction and operation of such dam and reservoir in excess of the estimated amount of taxes which would be lost if the dam were constructed and operated for flood control only and the commission shall decide the extent to which, in its opinion, the State of Connecticut would be justified in making reimbursement for loss of taxes in addition to reimbursement for such dam and reservoir if constructed and used for flood control only. Such estimate and decision shall thereafter be reviewed by the commission at five-year intervals until such time as such dam and reservoir shall be so constructed, reconstructed, altered or used or plans for such construction, reconstruction, alteration or use are abandoned. The commission shall notify the

governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state as to the commission's decision and as to any change in such decision.

A signatory state may, in agreement with the commission and the Chief of Engineers, acquire title or option to acquire title to any or all lands, rights or other property required for any flood control dam and reservoir within its boundaries and transfer such titles or options to the United States. Whenever the fair cost to said signatory state for such titles or options, as determined by the commission, is greater than the amount received therefor from the United States, the State of Connecticut shall pay its share of such excess cost to said signatory state, such share to be determined by the commission.

Whenever the commission shall not agree, within a reasonable time or within sixty days after a formal request from the governor of any signatory state, concerning reimbursement for loss of taxes at any flood control dam and reservoir heretofore or hereafter constructed by the United States in the Thames River Valley in Massachusetts, or concerning the extent, if any, to which reimbursement shall be made for additional loss of taxes caused by construction, reconstruction, alteration or use of any such dam for purposes other than flood control, the governor of each signatory state shall designate a person from his state as a member of a board of arbitration, hereinafter called the board, and the members so designated shall choose one additional member who shall be chairman of such board. Whenever the members appointed by the governors to such board shall not agree within sixty days on such additional member of the board, the governors of such signatory states shall jointly designate the additional member. The board shall by majority vote decide the question referred to it and shall do so in accordance with the provisions of this compact concerning such reimbursement. The decision of the board on each question referred to it concerning reimbursement for loss of taxes shall be binding on the commission and on each signatory state, notwithstanding any other provision of this compact.

## ARTICLE VI

Nothing contained in this compact shall be construed as a limitation upon the authority of the United States.

## ARTICLE VII

The signatory states agree to appropriate for compensation of agents and employees of the commission and for office, administration, travel and other expenses on recommendation of the commission subject to limitations as follows: The Commonwealth of Massachusetts obligates itself to not more than seven thousand (\$7,000) dollars in any one year and the State of Connecticut obligates itself to not more than five thousand (\$5,000) dollars in any one year.

## ARTICLE VIII

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts thereof shall continue to be in full force and effect.

## ARTICLE IX

This compact shall become operative and effective when ratified by the Commonwealth of Massachusetts and the State of Connecticut and approved by the Congress of the United States. Notice of ratification shall be given by the governor of each state to the governor of the other state and to the President of the United States, and the President of the United States is requested to give notice to the governors of each of the signatory states of approval by the Congress of the United States.

(1957, P.A. 559, S. 1.)

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Sec. 25-102. Commissioners; appointment; terms; vacancy. There shall be three members of the Thames River Valley Flood Control Commission appointed from Connecticut who shall act as commissioners for the state of Connecticut to execute, with representatives of the commonwealth of Massachusetts, the Thames River Valley Flood Control Compact and shall have the powers and duties provided in the compact. On or before May first in the even-numbered years the Governor, with the advice and consent of the Senate, shall appoint one member of the commission whose term of office shall be six years, commencing the first day of July following his appointment and until his successor is appointed and has qualified. Any vacancy in the membership of the commission from Connecticut shall be filled by the Governor for the unexpired portion of the term.

(1957, P.A. 559, S. 2.)

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