

Multi-County Flood Control Zone District Legislation

AN ACT Relating to flood control zone districts; adding a new section to chapter 86.15 RCW; and amending RCW 36.93.020, RCW 86.15.001, RCW 86.15.010, RCW 86.15.035, RCW 86.15.080, and RCW 86.15.170.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1. Zones with watershed territory in two or more counties.** A new section is added to chapter 86.15 RCW to read as follows:

(1) When a watershed comprises territory within two or more counties, the boards of any or all of those counties may create a multi-county zone by execution of a formation agreement that specifies the following:

(a) The boundaries of the multi-county zone. The boundaries of any multi-county zone shall generally follow the boundaries of the watershed area affected within the counties forming the multi-county zone. The boundaries may include or exclude areas to conform with electoral precinct boundaries.

(b) The general flood control needs or requirements within the multi-county zone.

(c) The number of supervisors, the qualifications for supervisors, the length of their terms, and whether supervisors will be appointed or elected by district voters, or a combination of both, including:

(i) the method of appointing any supervisor; and

(ii) for elected supervisors, whether (1) a supervisor shall be elected by all the voters within the multi-county zone; (2) whether a supervisor shall be elected by the voters of voting districts with substantially

equal numbers of voters; or (3) whether voting districts with substantially equal numbers of voters shall each nominate a candidate to be voted upon by all the voters within the multi-county zone.

(d) If applicable, whether a tribal supervisor described in subsection 3 of this section shall be a voting or non-voting supervisor.

(e) Manner in which actions are taken by the supervisors.

(f) The treasurer of a county participating in the multi-county zone that will hold the funds of the multi-county zone and carry out the responsibilities described in RCW 86.15.130.

(g) The engineer of the multi-county zone, which, subject to subsection (10) of this section, shall be the engineer of a county participating in the multi-county zone and who shall carry out the responsibilities described in RCW 86.15.060 if so provided in the agreement.

(h) The size, composition and method of selecting members of the advisory committee provided for pursuant to subsection (11) of this section.

(i) The time and manner in which the supervisors shall adopt a budget, and, if desired, the policies and processes governing the adoption of rates, charges, taxes and assessments and policies governing expenditures.

(j) If the boundaries of a multi-county zone will overlap another zone that is not a multi-county zone, a provision prescribing how any ad valorem property tax levies shall be established so that the combined levies in the overlapping zones will never exceed the amount authorized under RCW 86.15.160(3).

(k) Any other provisions deemed necessary and appropriate by the counties executing the formation agreement.

The failure of a formation agreement to include each and every one of the elements described below shall not render the agreement invalid.

(2) The formation agreement described in subsection (1) of this section must be approved by resolution of the board of each of the counties participating in the multi-county zone after holding a public hearing on that formation, which shall be not more than thirty days after the adoption of such resolution setting the hearing date. Thereafter, a board may by resolution accept or reject the agreement and the formation of the multi-county zone. The formation agreement may be amended from time to time by resolution of the board of each county participating in the multi-county zone, except that amendments to boundaries which must be made pursuant to subsection 13 of this section.

(3) Any federally-recognized Indian tribe with reservation land located in a watershed of a multi-county zone shall be provided the option to participate in the multi-county zone, and each tribe that chooses to participate may appoint a supervisor to the multi-county board. The tribal supervisor shall be a voting supervisor of the multi-county zone only if provided for in the formation agreement.

(4) Notwithstanding RCW 86.15.023, the boundaries of a multi-county zone may overlap another zone that is not a multi-county zone, but the combined annual ad valorem property tax levy shall not exceed the amount authorized under RCW 86.15.160(3).

(5) The board of supervisors of a multi-county zone will consist of a number of members provided in the formation agreement, including any tribal supervisors. The length of terms of elected supervisors shall be determined substantially in accordance with RCW 86.15.050(7). Appointed supervisors shall serve at the pleasure of the authority that appointed such supervisor. Members of the boards of the counties may serve as supervisors. If an appointed supervisor is not a member of the board of the county, then that appointed supervisor may be compensated pursuant to the provisions of RCW 86.15.055.

(6) Each elected supervisor of a multi-county zone shall serve until his or her successor is elected and qualified and assumes office. Vacancies in elected supervisor positions may occur and shall be filled as provided by chapter 42.12 RCW and the formation agreement. The costs and expenses directly related to the election of supervisors shall be borne by the multi-county zone.

(7) Except as otherwise provided in this section, RCW 86.15.020, RCW 86.15.023, RCW 86.15.025, RCW 86.15.030, RCW

86.15.050, RCW 86.15.070, RCW 86.15.130, and RCW 86.15.200 shall not apply to multi-county zones. All other provisions, powers, and limitations that apply to zones or flood control zone districts under chapter 86.15 RCW or other applicable law shall also apply to multi-county zones.

(8) The funds of the multi-county zone shall be held by the county treasurer designated in the agreement and such treasurer shall have the duties and authority of a zone treasurer as set forth in RCW 86.15.130. The administration of the affairs of a multi-county zone shall be in the county engineer, also designated in the agreement, who shall have the duties of a zone engineer as set forth in RCW 86.15.060. If the county with the designated treasurer or engineer of the multi-county zone withdraws from the multi-county zone pursuant to this section or is not designated in the formation agreement, then the county treasurer or the county engineer of the county remaining with the largest amount of area in the multi-county zone will be the treasurer or engineer of the multi-county zone until the remaining counties participating in the multi-county zone approve a new treasurer or engineer.

(9) The supervisors may also provide for administration of the affairs of the zone by other than the designated county engineer, pursuant to the authority established in RCW 86.15.095, to hire employees, staff, and services and to enter into contracts. The multi-county zone engineer or other administrator may appoint such deputies and engage such employees, specialists, and technicians as may be required by the multi-county zone and as authorized by the multi-county zone's budget. Subject to the approval of the supervisors, the engineer or other administrator may organize, or reorganize as required, the zone into such departments, divisions, or other administrative relationships as he or she deems necessary to its efficient operation.

(10) The budget adopted by the supervisors of a multi-county zone shall be in accordance with the provisions of RCW 86.15.140 unless otherwise provided in the formation agreement.

(11) As set forth in the formation agreement, the supervisors of a multi-county zone and/or the boards of counties participating in a multi-county zone, shall appoint members of a multi-county zone advisory committee if the committee is established in the agreement. Members of an advisory committee shall serve without pay and shall serve at the pleasure of the appointing authority.

(12) Subject to the terms of the formation agreement, and subject to the terms of any other contract or bond covenant, the board of each county participating in a multi-county zone may withdraw pursuant to a resolution adopted by such board. Before withdrawing, the board must conduct a public hearing notice of which shall be given as provided by RCW 36.32.120(7). If all counties participating within a multi-county zone withdraw, the multi-county zone will then be abolished. Any indebtedness of a multi-county zone must not be impaired by any withdrawal, and any county withdrawing must continue to levy and collect all necessary taxes and assessments until such debts are retired from property within the multi-county zone.

(13) Territory within a watershed but in a county that did not initially participate in formation of a multi-county zone may later be included within a multi-county zone upon approval of the board of that county consistent with subsection (2), together with an amendment of the agreement approved by the boards of all of the counties within the multi-county zone. Prior to inclusion of that territory, the public hearing described in subsection (2) of this section shall be required only in a county that did not initially participate in formation of the multi-county zone.

(14) Existing zones formed under chapter 86.15 RCW may become combined into and become a new multi-county zone and be entitled to all the powers and privileges available under this section, if: (a) the zones have entered into an interlocal agreement under RCW 86.15.035 or RCW 86.15.080(8) and if necessary, amend or restate or replace the interlocal agreement so that it materially complies with the requirements of this section, (b) the boards of counties participating in the agreement have passed resolutions approving the conversion of the county zone into the new multi-county zone, and (c) the resolutions and amended, restated, or replaced agreements also provide that all rights and obligations of the zone formally existing under chapter 86.15 RCW shall thereafter be the obligations of the new multi-county zone created under this section. Upon compliance with those requirements, the new multi-county zone shall be a successor of the former zone for all purposes, and all rights and obligations of the former zone shall transfer to the new multi-county zone and the obligations shall be treated as having been incurred, entered into or issued by the new multi-county zone; those obligations shall remain in full force and effect and shall continue to be enforceable in accordance with their terms.

Sec. 2. RCW 36.93.020 and 1999 c 153 s 44 are each amended to read as follows:

As used herein:

(1) "Governmental unit" means any incorporated city or town, metropolitan municipal corporation, or any special purpose district as defined in this section.

(2) "Special purpose district" means any water-sewer district, fire protection district, drainage improvement district, drainage and diking improvement district, flood control zone district (other than a multicounty flood control zone district), irrigation district, metropolitan park district, drainage district, or public utility district engaged in water distribution.

(3) "Board" means a boundary review board created by or pursuant to this chapter.

Sec. 3. RCW 86.15.001 and 1989 c 84 § 65 are each amended to read as follows:

The creation of a flood control zone district (other than a multicounty flood control zone district) may be subject to potential review by a boundary review board under chapter 36.93 RCW. Extensions of service outside of the boundaries of a flood control zone district may be subject to potential review by a boundary review board under chapter 36.93 RCW.

Sec. 4. RCW 86.15.010 and 1983 c 315 § 11 are each amended to read as follows:

The definitions set forth in this section apply through this chapter.

(1) "Board" means the county legislative authority.

(2) "Flood control improvement" means any works, projects or other facilities necessary for the control of flood waters within the county or any zone or zones.

(3) "Flood waters" and "storm waters" means any storm waste or surplus waters, including surface water, wherever located within

the county or a zone or zones where such waters endanger public highways, streams and water courses, harbors, life, or property.

(4) "Participating zones" means two or more zones found to benefit from a single flood control improvement or storm water control improvement.

(5) "Storm water control improvement" means any works, projects, or other facilities necessary to control and treat storm water within the county or any zone or zones.

(6) "Supervisors" means the board of supervisors, or governing body, of a zone.

(7) "Zones" and "multi-county zones" mean ~~((means))~~ flood control zone districts ~~((which))~~ and multi-county flood control zone districts, respectively, and are quasi municipal corporations of the state of Washington created by this chapter.

Sec. 5. RCW 86.15.035 and 2003 1 c327 s 219 are each amended to read as follows:

In addition to the authority provided in this chapter, flood control zone districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including without limitation those ~~((watershed management partnerships))~~ under chapter 39.34 RCW, ((39.34.210)) under this act, and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management.

Sec. 6. RCW 86.15.080 and 2010 c 46 § 2 are each amended to read as follows:

A zone or participating zone may:

(1) Exercise all the powers and immunities vested in a county for flood water or storm water control purposes under the provisions of chapters 86.12, 86.13, 36.89, and 36.94 RCW: PROVIDED, That in exercising such powers, all actions shall be taken in the name of the zone, and, unless otherwise provided by agreement with a county or other public entity, title to all property or property rights shall vest in the zone;

(2) Plan, construct, acquire, repair, maintain, and operate all necessary equipment, facilities, improvements, and works to

control, conserve, and remove flood waters and storm waters and to otherwise carry out the purposes of this chapter including, but not limited to, protection of the quality of water sources;

(3) Take action necessary to protect life and property within the district from flood water damage, including in the context of an emergency, as defined in RCW 38.52.010, using covered volunteer emergency workers, as defined in RCW 38.52.010 and 38.52.180(5)(a), subject to and in accordance with the terms of RCW 38.52.180;

(4) Control, conserve, retain, reclaim, and remove flood waters and storm waters, including waters of lakes and ponds within the district, and dispose of the same for beneficial or useful purposes under such terms and conditions as the board may deem appropriate, subject to the acquisition by the board of appropriate water rights in accordance with the statutes;

(5) Acquire necessary property, property rights, facilities, and equipment necessary to the purposes of the zone by purchase, gift, or condemnation pursuant to Chapter 8.08 RCW: PROVIDED, That property of municipal corporations may not be acquired without the consent of such municipal corporation;

(6) Sue and be sued in the name of the zone;

(7) Acquire or reclaim lands when incidental to the purposes of the zone and dispose of such lands as are surplus to the needs of the zone in the manner provided for the disposal of county property in chapter 36.34 RCW;

(8) Cooperate with ~~((or))~~, join with, or contract with the state of Washington, United States, another state, any agency, corporation or political subdivision of the United States or any state, Canada, any federally-recognized Indian tribe or any private corporation or individual for the purposes of this chapter;

(9) Accept funds or property by loan, grant, gift or otherwise from the United States, the state of Washington, or any other public or private source;

(10) Remove debris, logs, or other material which may impede the orderly flow of waters in streams or water courses: PROVIDED, That such material shall become property of the zone and may be sold for the purpose of recovering the cost of removal: PROVIDED FURTHER, That valuable material or minerals

removed from public lands shall remain the property of the state;

(11) Provide grant funds to political subdivisions of the state that are located within the boundaries of the zone, so long as the use of the grant funds is within the purposes authorized under this chapter;;

(12) Lease, convey, transfer, assign or otherwise make available any real or personal property or property rights, other assets or franchise rights, with or without compensation, to the state of Washington or to any city, county, special purpose district or other local government entity, to carry out the purposes authorized under this chapter.

Sec. 7. RCW 86.16.170 and 1984 c 186 § 62 are each amended to read as follows:

The supervisors may authorize the issuance of general obligation bonds to finance any flood control improvement or storm water control improvement and provide for the retirement of the bonds with ad valorem property tax levies. General obligation bonds may be issued and the bond retirement levies imposed pursuant to RCW 86.15.160(3) without the approval of the voters of the flood control zone district. The general obligation bonds may also be issued and the bond retirement levies imposed pursuant to RCW 86.15.160(1) only when the voters of the flood control zone district approve a ballot proposition authorizing both the bond issuance and imposition of the excess bond retirement levies pursuant to Article VIII, section 6 and Article VII, section 2(b) of the state Constitution and RCW 84.52.056. Elections shall be held as provided in RCW 39.36.050. The voter-approved bonds shall be issued on behalf of the zone or participating zones and be approved by the voters of the zone or participating zones when the improvement has by the resolution, provided in RCW 86.15.110, been found to be of benefit to a zone or participating zones. ~~((The))~~ All general obligation bonds may not exceed an amount, together with any outstanding general obligation indebtedness, equal to three-fourths of one percent of the value of taxable property within the zone or participating zones, as the term "value of the taxable property" is defined in RCW 39.36.015. The bonds shall be issued and sold in accordance with chapter 39.46 RCW.