

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 340

Representative Cupp

**Cosponsors: Representatives Hambley, Patterson, Manning, G., Riedel, Seitz,
Blair**

A BILL

To amend sections 305.31, 940.01, 940.02, 940.05,	1
940.06, 940.07, 940.08, 940.10, 940.11, 940.12,	2
940.13, 940.19, 940.20, 940.21, 940.22, 940.23,	3
940.26, 940.29, 940.31, 940.32, 940.33, 940.34,	4
940.35, 6131.01, 6131.04, 6131.05, 6131.06,	5
6131.07, 6131.08, 6131.09, 6131.10, 6131.11,	6
6131.12, 6131.13, 6131.14, 6131.15, 6131.16,	7
6131.17, 6131.19, 6131.21, 6131.22, 6131.23,	8
6131.24, 6131.25, 6131.27, 6131.28, 6131.30,	9
6131.32, 6131.33, 6131.34, 6131.36, 6131.42,	10
6131.43, 6131.47, 6131.50, 6131.51, 6131.52,	11
6131.55, 6131.57, 6131.60, 6131.63, 6131.631,	12
6131.64, 6133.01, 6133.02, 6133.03, 6133.04,	13
6133.041, 6133.05, 6133.06, 6133.07, 6133.08,	14
6133.09, 6133.10, 6133.11, 6133.14, 6137.01,	15
6137.02, 6137.03, 6137.04, 6137.05, 6137.051,	16
6137.06, 6137.07, 6137.08, 6137.09, 6137.10,	17
6137.11, 6137.111, 6137.112, 6137.12, 6137.13,	18
and 6137.14; to amend, for the purpose of	19
adopting new section numbers as indicated in	20
parentheses, sections 940.26 (940.24), 940.29	21
(940.31), 940.33 (940.32), 940.34 (940.33),	22

940.31 (940.35), 940.32 (940.36), 940.35 23
(940.37), and 6131.57 (6131.061); to enact new 24
sections 940.25, 940.26, 940.27, 940.28, 940.29, 25
940.30, and 940.34 and sections 940.38, 940.39, 26
and 6131.101; and to repeal sections 940.18, 27
940.24, 940.25, 940.26, 940.27, 940.28, 940.29, 28
940.30, 6131.18, 6131.26, 6131.29, 6131.35, 29
6131.44, 6131.48, 6131.49, 6131.56, and 6131.62 30
of the Revised Code to revise the state's 31
drainage laws. 32

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 305.31, 940.01, 940.02, 940.05, 33
940.06, 940.07, 940.08, 940.10, 940.11, 940.12, 940.13, 940.19, 34
940.20, 940.21, 940.22, 940.23, 940.26, 940.29, 940.31, 940.32, 35
940.33, 940.34, 940.35, 6131.01, 6131.04, 6131.05, 6131.06, 36
6131.07, 6131.08, 6131.09, 6131.10, 6131.11, 6131.12, 6131.13, 37
6131.14, 6131.15, 6131.16, 6131.17, 6131.19, 6131.21, 6131.22, 38
6131.23, 6131.24, 6131.25, 6131.27, 6131.28, 6131.30, 6131.32, 39
6131.33, 6131.34, 6131.36, 6131.42, 6131.43, 6131.47, 6131.50, 40
6131.51, 6131.52, 6131.55, 6131.57, 6131.60, 6131.63, 6131.631, 41
6131.64, 6133.01, 6133.02, 6133.03, 6133.04, 6133.041, 6133.05, 42
6133.06, 6133.07, 6133.08, 6133.09, 6133.10, 6133.11, 6133.14, 43
6137.01, 6137.02, 6137.03, 6137.04, 6137.05, 6137.051, 6137.06, 44
6137.07, 6137.08, 6137.09, 6137.10, 6137.11, 6137.111, 6137.112, 45
6137.12, 6137.13, and 6137.14 be amended; sections 940.26 46
(940.24), 940.29 (940.31), 940.33 (940.32), 940.34 (940.33), 47
940.31 (940.35), 940.32 (940.36), 940.35 (940.37), and 6131.57 48
(6131.061) be amended for the purpose of adopting new section 49

numbers as indicated in parentheses; and new sections 940.25, 50
940.26, 940.27, 940.28, 940.29, 940.30, and 940.34 and sections 51
940.38, 940.39, and 6131.101 of the Revised Code be enacted to 52
read as follows: 53

Sec. 305.31. The procedure for submitting to a referendum 54
a resolution adopted by a board of county commissioners under 55
division (H) of section 307.695 of the Revised Code that is not 56
submitted to the electors of the county for their approval or 57
disapproval; any resolution adopted by a board of county 58
commissioners pursuant to division (D) (1) of section 307.697, 59
section 322.02, or 322.06, sections ~~940.31-940.32~~ and ~~940.33-~~ 60
940.35, division (B) (1) of section 4301.421, section 4504.02, 61
5739.021, or 5739.026, division (A) (6), (A) (10), or (M) of 62
section 5739.09, section 5741.021 or 5741.023, or division (C) 63
(1) of section 5743.024 of the Revised Code; or a rule adopted 64
pursuant to section 307.79 of the Revised Code shall be as 65
prescribed by this section. 66

Except as otherwise provided in this paragraph, when a 67
petition, signed by ten per cent of the number of electors who 68
voted for governor at the most recent general election for the 69
office of governor in the county, is filed with the county 70
auditor within thirty days after the date the resolution is 71
passed or rule is adopted by the board of county commissioners, 72
or is filed within forty-five days after the resolution is 73
passed, in the case of a resolution adopted pursuant to section 74
5739.021 of the Revised Code that is passed within one year 75
after a resolution adopted pursuant to that section has been 76
rejected or repealed by the electors, requesting that the 77
resolution be submitted to the electors of the county for their 78
approval or rejection, the county auditor shall, after ten days 79
following the filing of the petition, and not later than four 80

p.m. of the ninetieth day before the day of election, transmit a 81
certified copy of the text of the resolution or rule to the 82
board of elections. In the case of a petition requesting that a 83
resolution adopted under division (D) (1) of section 307.697, 84
division (B) (1) of section 4301.421, or division (C) (1) of 85
section 5743.024 of the Revised Code be submitted to electors 86
for their approval or rejection, the petition shall be signed by 87
seven per cent of the number of electors who voted for governor 88
at the most recent election for the office of governor in the 89
county. The county auditor shall transmit the petition to the 90
board together with the certified copy of the resolution or 91
rule. The board shall examine all signatures on the petition to 92
determine the number of electors of the county who signed the 93
petition. The board shall return the petition to the auditor 94
within ten days after receiving it, together with a statement 95
attesting to the number of such electors who signed the 96
petition. The board shall submit the resolution or rule to the 97
electors of the county, for their approval or rejection, at the 98
succeeding general election held in the county in any year, or 99
on the day of the succeeding primary election held in the county 100
in even-numbered years, occurring subsequent to ninety days 101
after the auditor certifies the sufficiency and validity of the 102
petition to the board of elections. 103

No resolution shall go into effect until approved by the 104
majority of those voting upon it. However, a rule shall take 105
effect and remain in effect unless and until a majority of the 106
electors voting on the question of repeal approve the repeal. 107
Sections 305.31 to 305.41 of the Revised Code do not prevent a 108
county, after the passage of any resolution or adoption of any 109
rule, from proceeding at once to give any notice or make any 110
publication required by the resolution or rule. 111

The board of county commissioners shall make available to 112
any person, upon request, a certified copy of any resolution or 113
rule subject to the procedure for submitting a referendum under 114
sections 305.31 to 305.42 of the Revised Code beginning on the 115
date the resolution or rule is adopted by the board. The board 116
may charge a fee for the cost of copying the resolution or rule. 117

As used in this section, "certified copy" means a copy 118
containing a written statement attesting that it is a true and 119
exact reproduction of the original resolution or rule. 120

Sec. 940.01. As used in this chapter: 121

(A) "Soil and water conservation district" means a 122
district organized in accordance with this chapter. 123

(B) "Supervisor" means one of the members of the governing 124
body of a district. 125

(C) "Landowner," "owner," or "owner of land" means an 126
owner of record as shown by the records in the office of the 127
county recorder. With respect to an improvement or a proposed 128
improvement, "landowner," "owner," or "owner of land" also 129
includes any public corporation and the director of any 130
department, office, or institution of the state that is affected 131
by the improvement or that would be affected by the proposed 132
improvement, but that does not own any right, title, estate, or 133
interest in or to any real property. 134

(D) "Land occupier" or "occupier of land" means any 135
person, firm, or corporation that controls the use of land 136
whether as landowner, lessee, renter, or tenant. 137

(E) "Due notice" means notice published at least twice, 138
stating time and place, with an interval of at least thirteen 139
days between the two publication dates, in a newspaper of 140

general circulation within a soil and water conservation 141
district. 142

(F) "Agricultural pollution" means failure to use 143
management or conservation practices in farming or silvicultural 144
operations to abate wind or water erosion of the soil or to 145
abate the degradation of the waters of the state by residual 146
farm products, manure, or soil sediment, including substances 147
attached thereto. 148

(G) "Urban sediment pollution" means failure to use 149
management or conservation practices to abate wind or water 150
erosion of the soil or to abate the degradation of the waters of 151
the state by soil sediment in conjunction with land grading, 152
excavating, filling, or other soil disturbing activities on land 153
used or being developed for nonfarm commercial, industrial, 154
residential, or other nonfarm purposes, except lands being used 155
in a strip mine operation as defined in section 1513.01 of the 156
Revised Code and except lands being used in a surface mining 157
operation as defined in section 1514.01 of the Revised Code. 158

(H) "Uniform assessment" means an assessment that is both 159
of the following: 160

(1) Based upon a complete appraisal of ~~each~~ both of the 161
following: 162

(a) Each parcel of land, together with all improvements 163
thereon, within ~~a project the area that will benefit from a~~ 164
proposed improvement; ~~and of the~~ 165

(b) The benefits or damages brought about as a result of 166
the ~~project proposed improvement~~ that is determined by criteria 167
applied equally to all parcels within the ~~project area,~~ that 168
will benefit from the proposed improvement. 169

(2) Levied upon the parcels at a uniform rate on the basis of the appraisal.	170 171
(I) "Varied assessment" means any assessment that does not meet the criteria established in division (H) of this section.	172 173
(J) "Project area" means an area determined and certified by the supervisors of a soil and water conservation district under section 940.25 of the Revised Code.	174 175 176
(K) "Benefit" or "benefits" means advantages to land and owners, to public corporations, and to the state resulting from drainage, conservation, control, and management of water and from environmental, wildlife, and recreational improvements. "Benefit" or "benefits" includes, but is not limited to, any of the following factors:	177 178 179 180 181 182
(1) Elimination or reduction of damage from flooding;	183
(2) Removal of water conditions that jeopardize public health, safety, or welfare;	184 185
(3) Increased value of land resulting from an improvement;	186
(4) Use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other incidental purpose;	187 188 189
(5) Providing an outlet for the accelerated runoff from artificial drainage if a stream, watercourse, channel, or ditch that is under improvement is called upon to discharge functions for which it was not designed. Uplands that have been removed from their natural state by deforestation, cultivation, artificial drainage, urban development, or other human methods shall be considered to be benefited by an improvement that is required to dispose of the accelerated flow of water from the	190 191 192 193 194 195 196 197

uplands. 198

~~(L)~~ (K) "Improvement" or "conservation works of 199
improvement" means an improvement that is made under the 200
authority established in division (C) of section 940.06 of the 201
Revised Code. 202

~~(M)~~ (L) "Land" has the same meaning as in section 6131.01 203
of the Revised Code. 204

~~(N)~~ (M) "Manure," "operation and management plan," and 205
"residual farm products" have the same meanings as in section 206
939.01 of the Revised Code. 207

~~(O)~~ (N) "Voluntary nutrient management plan" has the same 208
meaning as in section 905.31 of the Revised Code. 209

(O) "Lead county" means the county in which the majority 210
of the initial length of a proposed improvement would be 211
located, as set forth in a petition, when the proposed 212
improvement would be located in two or more counties. 213

(P) "Day" means calendar day. 214

Sec. 940.02. There is hereby established in the department 215
of agriculture the Ohio soil and water conservation commission. 216
The commission shall consist of seven members of equal status 217
and authority, six of whom shall be appointed by the governor 218
with the advice and consent of the senate, and one of whom shall 219
be designated by resolution of the board of directors of the 220
Ohio federation of soil and water conservation districts. The 221
directors of agriculture, environmental protection, and natural 222
resources, the vice-president for agricultural administration of 223
the Ohio state university, and an officer of the Ohio federation 224
of soil and water conservation districts, or their designees, 225
may serve as ex officio members of the commission, but without 226

the power to vote. A vacancy in the office of an appointed 227
member shall be filled by the governor, with the advice and 228
consent of the senate. Any member appointed to fill a vacancy 229
occurring prior to the expiration of the term for which the 230
member's predecessor was appointed shall hold office for the 231
remainder of that term. Of the appointed members, four shall be 232
persons who have a knowledge of or interest in agricultural 233
production and the natural resources of the state. One member 234
shall represent rural interests and one member shall represent 235
urban interests. Not more than three of the appointed members 236
shall be members of the same political party. 237

Terms of office of the member designated by the board of 238
directors of the federation and the members appointed by the 239
governor shall be for four years, commencing on the first day of 240
July and ending on the thirtieth day of June. 241

Each appointed member shall hold office from the date of 242
appointment until the end of the term for which the member was 243
appointed. Any appointed member shall continue in office 244
subsequent to the expiration date of the member's term until the 245
member's successor takes office, or until a period of sixty days 246
has elapsed, whichever occurs first. 247

The commission shall organize by selecting from its 248
members a chairperson and a vice-chairperson. The commission 249
shall hold at least one regular meeting in each quarter of each 250
calendar year and shall keep a record of its proceedings, which 251
shall be open to the public for inspection. Special meetings may 252
be called by the chairperson and shall be called by the 253
chairperson upon receipt of a written request signed by two or 254
more members of the commission. Written notice of the time and 255
place of each meeting shall be sent to each member of the 256

commission. A majority of the commission shall constitute a 257
quorum. 258

The commission may adopt rules as necessary to carry out 259
the purposes of this chapter, subject to Chapter 119. of the 260
Revised Code. 261

The governor may remove any appointed member of the 262
commission at any time for inefficiency, neglect of duty, or 263
malfeasance in office, after giving to the member a copy of the 264
charges against the member and an opportunity to be heard 265
publicly in person or by counsel in the member's defense. Any 266
such act of removal by the governor is final. A statement of the 267
findings of the governor, the reason for the governor's action, 268
and the answer, if any, of the member shall be filed by the 269
governor with the secretary of state and shall be open to public 270
inspection. 271

All members of the commission shall be reimbursed for the 272
necessary expenses incurred by them in the performance of their 273
duties as members. 274

Upon recommendation by the commission, the director of 275
agriculture shall designate an executive secretary and provide 276
staff necessary to carry out the powers and duties of the 277
commission. 278

The commission shall do all of the following: 279

(A) Determine distribution of funds under section 940.15 280
of the Revised Code, recommend to the director and other 281
agencies the levels of appropriations to special funds 282
established to assist soil and water conservation districts, and 283
recommend the amount of federal funds to be requested and 284
policies for the use of such funds in support of soil and water 285

conservation district programs; 286

(B) Assist in keeping the board of supervisors of soil and 287
water conservation districts informed of ~~their~~its powers and 288
duties, program opportunities, and the activities and experience 289
of all other districts, and facilitate the interchange of 290
advice, experience, and cooperation between the districts; 291

(C) Seek the cooperation and assistance of the federal 292
government or any of its agencies, and of agencies of this 293
state, in the work of the districts; 294

(D) Adopt appropriate rules governing the conduct of 295
elections provided for in this chapter, subject to Chapter 119. 296
of the Revised Code, provided that only owners and occupiers of 297
lands situated within the boundaries of the districts or 298
proposed districts to which the elections apply shall be 299
eligible to vote in the elections; 300

(E) Recommend to the director priorities for planning and 301
construction of small watershed projects, and make 302
recommendations to the director concerning coordination of 303
programs as proposed and implemented in agreements with soil and 304
water conservation districts; 305

(F) Recommend to the director, the governor, and the 306
general assembly programs and legislation with respect to the 307
operations of soil and water conservation districts that will 308
encourage proper soil, water, and other natural resource 309
management and promote the economic and social development of 310
the state; 311

(G) Recommend to the director of agriculture a procedure 312
for coordination of a program of agricultural pollution 313
abatement. Implementation of such a program shall be based on 314

water quality standards adopted pursuant to section 6111.041 of 315
the Revised Code. The director of environmental protection may 316
coordinate with the division of soil and water conservation in 317
the department of agriculture and soil and water conservation 318
districts for the abatement of agricultural pollution. 319

Sec. 940.05. The ~~governing body board~~ of supervisors of a 320
soil and water conservation district shall consist of five 321
supervisors, as provided for in section 940.04 of the Revised 322
Code. 323

The ~~supervisors board~~ shall organize annually by selecting 324
a chairperson, a secretary, and a treasurer. ~~They~~ It shall 325
designate one of ~~their~~ its members as fiscal agent. A majority 326
of the ~~five supervisors board~~ shall constitute a quorum. The 327
concurrence of a majority of the ~~five supervisors board~~ in any 328
matter shall be required for its determination. A supervisor 329
shall receive no compensation for the supervisor's services, 330
except when both of the following occur: 331

(A) A district board of supervisors designates one or more 332
of its supervisors to represent the district on a joint district 333
board or if an agency or instrumentality of the United States, 334
of this state, or of a political subdivision of this state 335
requires or requests district board representation; 336

(B) Such compensation is provided for by public moneys 337
other than moneys in the special fund of the local district 338
created pursuant to section 940.12 of the Revised Code. 339

A supervisor is entitled to be reimbursed for the 340
necessary expenses incurred in the discharge of official duties. 341

The ~~supervisors board of supervisors~~ shall furnish to the 342
Ohio soil and water conservation commission, upon its request, 343

copies of rules, orders, contracts, forms, and other documents 344
~~they adopt or employ it~~ adopts or employs and other information 345
concerning ~~their~~ its activities as it requires in the 346
performance of its duties under this chapter. 347

At least once each year, a district shall submit to the 348
commission a report of progress and operations, including a 349
summary of receipts and disbursements during the period covered 350
by the report. A district shall submit additional financial 351
reports as requested by the commission. 352

The ~~supervisors~~ board shall provide for the execution of 353
surety bonds for all employees and officers who are entrusted 354
with funds and shall provide for the keeping of a full and 355
accurate record of all proceedings and of all resolutions and 356
orders issued or adopted. Any supervisor may be removed by the 357
commission upon notice and hearing for neglect of duty or 358
malfeasance in office. 359

Sec. 940.06. The board of supervisors of a soil and water 360
conservation district have the following powers in addition to 361
~~their~~ its other powers: 362

(A) To conduct surveys, investigations, and research 363
relating to the character of soil erosion, floodwater and 364
sediment damages, and the preventive and control measures and 365
works of improvement for flood prevention and the conservation, 366
development, utilization, and disposal of water needed within 367
the district, and to publish the results of those surveys, 368
investigations, or research, provided that no district shall 369
initiate any research program except in cooperation or after 370
consultation with the Ohio agricultural research and development 371
center; 372

(B) To develop plans for the conservation of soil 373
resources, for the control and prevention of soil erosion, and 374
for works of improvement for flood prevention and the 375
conservation, development, utilization, and disposal of water 376
within the district, and to publish those plans and information; 377

(C) To implement, construct, repair, maintain, and operate 378
preventive and control measures and other works of improvement 379
for natural resource conservation and development and flood 380
prevention, and the conservation, development, utilization, and 381
disposal of water within the district on lands owned or 382
controlled by this state or any of its agencies and on any other 383
lands within the district, which works may include any 384
facilities authorized under state or federal programs, and to 385
acquire, by purchase or gift, to hold, encumber, or dispose of, 386
and to lease real and personal property or interests in such 387
property for those purposes; 388

(D) To cooperate or enter into agreements with any 389
occupier of lands within the district in the carrying on of 390
natural resource conservation operations and works of 391
improvement for flood prevention and the conservation, 392
development, utilization, and management of natural resources 393
within the district, subject to such conditions as the 394
supervisors consider necessary; 395

(E) To accept donations, gifts, grants, and contributions 396
in money, service, materials, or otherwise, and to use or expend 397
them according to their terms; 398

(F) To adopt, amend, and rescind rules to carry into 399
effect the purposes and powers of the district; 400

(G) To sue and plead in the name of the district, and be 401

sued and impleaded in the name of the district, with respect to 402
its contracts and, as indicated in section 940.07 of the Revised 403
Code, certain torts of its officers, employees, or agents acting 404
within the scope of their employment or official 405
responsibilities, or with respect to the enforcement of its 406
obligations and covenants made under this chapter; 407

(H) To make and enter into all contracts, leases, and 408
agreements and execute all instruments necessary or incidental 409
to the performance of the duties and the execution of the powers 410
of the district under this chapter, provided that all of the 411
following apply: 412

(1) Except as provided in section 307.86 of the Revised 413
Code regarding expenditures by boards of county commissioners, 414
when the cost under any such contract, lease, or agreement, 415
other than compensation for personal services or rental of 416
office space, involves an expenditure of more than the amount 417
established in that section regarding expenditures by boards of 418
county commissioners, the ~~supervisors-board~~ shall make a written 419
contract with the lowest and best bidder after advertisement, 420
for not less than two nor more than four consecutive weeks 421
preceding the day of the opening of bids, in a newspaper of 422
general circulation within the district or as provided in 423
section 7.16 of the Revised Code and in such other publications 424
as the supervisors determine. The notice shall state the general 425
character of the work and materials to be furnished, the place 426
where plans and specifications may be examined, and the time and 427
place of receiving bids. 428

(2) Each bid for a contract shall contain the full name of 429
every person interested in it. 430

(3) Each bid for a contract for the construction, 431

demolition, alteration, repair, or reconstruction of an 432
improvement shall meet the requirements of section 153.54 of the 433
Revised Code. 434

(4) Each bid for a contract, other than a contract for the 435
construction, demolition, alteration, repair, or reconstruction 436
of an improvement, at the discretion of the ~~supervisors~~ board, 437
may be accompanied by a bond or certified check on a solvent 438
bank in an amount not to exceed five per cent of the bid, 439
conditioned that, if the bid is accepted, a contract shall be 440
entered into. 441

(5) The ~~supervisors~~ board may reject any and all bids. 442

(I) To charge, alter, and collect rentals and other 443
charges for the use or services of any works of the district; 444

(J) To enter, either in person or by designated 445
representatives, upon lands, private or public, in the necessary 446
discharge of their duties; 447

(K) To enter into agreements or contracts with the 448
department of agriculture for the determination, implementation, 449
inspection, and funding of agricultural pollution abatement 450
measures whereby landowners, operators, managers, and developers 451
may meet adopted state standards for a quality environment, 452
except that failure of a ~~district board of supervisors~~ to 453
negotiate an agreement or contract with the department 454
authorizes the department to implement the required program; 455

(L) To conduct demonstrations and provide information to 456
the public regarding practices and methods for natural resource 457
conservation, development, and utilization; 458

(M) To enter into contracts or agreements with the 459
director of environmental protection in furtherance of actions 460

to abate urban sediment pollution; 461

(N) To develop operation and management plans as 462
necessary; 463

(O) To determine whether operation and management plans 464
developed under division (A) of section 939.03 of the Revised 465
Code comply with the standards established under division (E) (1) 466
of section 939.02 of the Revised Code and to approve or 467
disapprove the plans, based on such compliance. If an operation 468
and management plan is disapproved, the board shall provide a 469
written explanation to the person who submitted the plan. The 470
person may appeal the plan disapproval to the director of 471
agriculture or the director's designee, who shall afford the 472
person a hearing. Following the hearing, the director or the 473
director's designee shall uphold the plan disapproval or reverse 474
it. If the director or the director's designee reverses the plan 475
disapproval, the plan shall be deemed approved under this 476
division. In the event that any person operating or owning 477
agricultural land or an animal feeding operation in accordance 478
with an approved operation and management plan who, in good 479
faith, is following that plan, causes agricultural pollution, 480
the plan shall be revised in a fashion necessary to mitigate the 481
agricultural pollution, as determined and approved by the board 482
~~of supervisors of the soil and water conservation district.~~ 483

(P) To develop timber harvest plans; 484

(Q) To determine whether timber harvest plans developed 485
under division (A) of section 1503.52 of the Revised Code comply 486
with the standards established under division (A) (1) of section 487
1503.51 of the Revised Code and to approve or disapprove the 488
plans based on such compliance. If a timber harvest plan is 489
disapproved, the board shall provide a written explanation to 490

the person who submitted the plan. The person may appeal the 491
plan disapproval to the chief of the division of forestry or the 492
chief's designee, who shall afford the person a hearing. 493
Following the hearing, the chief or the chief's designee shall 494
uphold the plan disapproval or reverse it. If the chief or the 495
chief's designee reverses the plan disapproval, the plan shall 496
be deemed approved under this division. 497

(R) With regard to composting conducted in conjunction 498
with agricultural operations, to do all of the following: 499

(1) Upon request or upon their own initiative, inspect 500
composting at any such operation to determine whether the 501
composting is being conducted in accordance with section 939.04 502
of the Revised Code; 503

(2) If the board determines that composting is not being 504
so conducted, request the director to take corrective actions 505
under section 939.07 of the Revised Code that require the person 506
who is conducting the composting to prepare a composting plan in 507
accordance with rules adopted under division (E) (5) (a) of 508
section 939.02 of the Revised Code and to operate in accordance 509
with that plan or to operate in accordance with a previously 510
prepared plan, as applicable; 511

(3) In accordance with rules adopted under division (E) (5) 512
(b) of section 939.02 of the Revised Code, review and approve or 513
disapprove any such composting plan. If a plan is disapproved, 514
the board shall provide a written explanation to the person who 515
submitted the plan. 516

As used in division (R) of this section, "composting" has 517
the same meaning as in section 939.01 of the Revised Code. 518

(S) With regard to conservation activities that are 519

conducted in conjunction with agricultural operations, to assist 520
the county auditor, upon request, in determining whether a 521
conservation activity is a conservation practice for purposes of 522
Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the 523
Revised Code. 524

As used in this division, "conservation practice" has the 525
same meaning as in section 5713.30 of the Revised Code. 526

(T) To develop and approve or disapprove voluntary 527
nutrient management plans in accordance with section 905.323 of 528
the Revised Code; 529

(U) To do all acts necessary or proper to carry out the 530
powers granted in this chapter. 531

The director shall make recommendations to reduce the 532
adverse environmental effects of each project that a soil and 533
water conservation district plans to undertake under division 534
(A), (B), (C), or (D) of this section and that will be funded in 535
whole or in part by moneys authorized under section 940.17 of 536
the Revised Code and shall disapprove any such project that the 537
director finds will adversely affect the environment without 538
equal or greater benefit to the public. The director's 539
disapproval or recommendations, upon the request of the district 540
filed in accordance with rules adopted by the Ohio soil and 541
water conservation commission, shall be reviewed by the 542
commission, which may confirm the director's decision, modify 543
it, or add recommendations to or approve a project the director 544
has disapproved. 545

Any instrument by which real property is acquired pursuant 546
to this section shall identify the agency of the state that has 547
the use and benefit of the real property as specified in section 548

5301.012 of the Revised Code. 549

Sec. 940.07. (A) As used in this section: 550

(1) "Judgment" includes a consent judgment. 551

(2) "Tort action" means a civil action for damages for 552
injury, death, or loss to person or property, other than a civil 553
action for damages for a breach of contract or another agreement 554
between persons. 555

(B) Except as provided in divisions (C) and (D) of this 556
section, the provisions of Chapter 2744. of the Revised Code 557
apply to soil and water conservation districts as political 558
subdivisions of the state and to their boards of supervisors and 559
other officers, employees, and agents as employees of political 560
subdivisions of the state. 561

(C) (1) The attorney general, an assistant attorney 562
general, or special counsel appointed by the attorney general 563
shall defend a soil and water conservation district in any tort 564
action that is commenced against the district as a political 565
subdivision of the state under or pursuant to Chapter 2744. of 566
the Revised Code, if a written request for the legal 567
representation is submitted to the attorney general by the Ohio 568
soil and water conservation commission. If a request is so 569
submitted, the prosecuting attorney of the county associated 570
with the district does not have legal representation duties in 571
connection with the tort action under section 940.13 of the 572
Revised Code. 573

(2) The attorney general, an assistant attorney general, 574
or special counsel appointed by the attorney general shall 575
defend a supervisor or other officer, employee, or agent of a 576
soil and water conservation district in any tort action that is 577

commenced against that person and based upon an action or 578
omission allegedly associated with that person's employment or 579
official responsibilities for the district, if both of the 580
following apply: 581

(a) At the time of the action or omission, the person was 582
not acting manifestly outside the scope of the person's 583
employment or official responsibilities for the district or 584
acting with malicious purpose, in bad faith, or in a wanton or 585
reckless manner; 586

(b) A written request for the legal representation is 587
submitted to the attorney general by the Ohio soil and water 588
conservation commission. 589

(3) If a request for legal representation is submitted to 590
the attorney general pursuant to division (C) (2) of this 591
section, divisions (A) and (D) of section 2744.07 of the Revised 592
Code do not apply to the soil and water conservation district 593
and the defense of its supervisor or other officer, employee, or 594
agent. 595

(D) (1) The state shall indemnify and hold harmless a soil 596
and water conservation district as follows: 597

(a) In the amount of any judgment that is rendered against 598
the district in a tort action that is commenced under or 599
pursuant to Chapter 2744. of the Revised Code; 600

(b) In the amount of any settlement of a tort action 601
against the district as described in division (D) (1) (a) of this 602
section, or of a claim for damages for injury, death, or loss to 603
person or property that could become a basis of a tort action 604
against the district as described in division (D) (1) (a) of this 605
section. 606

(2) The state shall indemnify and hold harmless a 607
supervisor or other officer, employee, or agent of a soil and 608
water conservation district as follows: 609

(a) Subject to the limitations specified in division (D) 610
(3) of this section, in the amount of any judgment that is 611
rendered against that person in a tort action based upon an 612
action or omission allegedly associated with the person's 613
employment or official responsibilities for the district; 614

(b) Subject to the limitations specified in division (D) 615
(3) of this section, in the amount of any settlement of a tort 616
action as described in division (D) (2) (a) of this section or of 617
any settlement of a claim for damages for injury, death, or loss 618
to person or property that could become a basis of a tort action 619
as described in division (D) (2) (a) of this section. 620

(3) (a) The maximum aggregate amount of indemnification 621
paid directly from state funds to or on behalf of any supervisor 622
or other officer, employee, or agent of a soil and water 623
conservation district pursuant to divisions (D) (2) (a) and (b) of 624
this section shall be one million dollars per occurrence, 625
regardless of the number of persons who suffer injury, death, or 626
loss to person or property as a result of the action or omission 627
of that person. 628

(b) An indemnification may be made pursuant to division 629
(D) (2) (a) or (b) of this section only if, at the time of the 630
action or omission, the supervisor or other officer, employee, 631
or agent of a soil and water conservation district was not 632
acting manifestly outside the scope of the supervisor's or other 633
officer's, employee's, or agent's employment or official 634
responsibilities for the district or acting with malicious 635
purpose, in bad faith, or in a wanton or reckless manner. 636

(c) An indemnification shall not be made pursuant to 637
division (D) (2) (a) or (b) of this section for any portion of a 638
consent judgment or settlement that is unreasonable or for any 639
portion of a judgment that represents punitive or exemplary 640
damages. 641

(4) Division (B) of section 2744.07 of the Revised Code 642
does not apply to a soil and water conservation district, or to 643
any of its supervisors or other officers, employees, or agents, 644
to the extent that division (D) of this section requires the 645
state to indemnify and hold harmless a supervisor or other 646
officer, employee, or agent of that district. 647

Sec. 940.08. The board of supervisors of a soil and water 648
conservation district may employ assistants and such other 649
employees as ~~they consider~~ it considers necessary and may 650
provide for the payment of the reasonable compensation of such 651
assistants and employees and expenses incurred by them in the 652
discharge of their duties from the special fund established for 653
the district pursuant to section 940.12 of the Revised Code. 654

District employees are entitled to the sick leave benefits 655
that are provided in section 124.38 of the Revised Code and the 656
vacation leave benefits that are provided in section 325.19 of 657
the Revised Code and are entitled to participate in the sick 658
leave donation program established under section 940.09 of the 659
Revised Code. 660

The ~~supervisors board~~ may designate the amounts and forms 661
of other benefits, including insurance protection, to be 662
provided to employees and may make payments of benefits from the 663
district fund that is created with moneys accepted by the 664
supervisors in accordance with division (E) of section 940.06 of 665
the Revised Code or from the special fund created pursuant to 666

section 940.12 of the Revised Code. The board of county 667
commissioners may make payments of benefits that are provided 668
under this section. 669

The board of supervisors may purchase such materials, 670
equipment, and supplies, may lease such equipment, and may rent, 671
purchase, or construct, and maintain, such offices, and provide 672
for such equipment and supplies therefor, as ~~they consider it~~ 673
considers necessary and may pay for the same from the special 674
fund established for the district pursuant to section 940.12 of 675
the Revised Code. 676

Sec. 940.10. (A) When the board of supervisors of a soil 677
and water conservation district find, by resolution, that the 678
district has personal property, including motor vehicles 679
acquired for the use of district officers, road machinery, 680
equipment, tools, or supplies, that is not needed for public 681
use, or is obsolete or unfit for the use for which it was 682
acquired, the ~~supervisors board~~ may sell such property at public 683
auction or by sealed bid to the highest bidder⁷. The board may 684
sell the property after giving at least ten days' notice of the 685
time, place, and manner of sale by posting a typewritten or 686
printed notice in the office of the board of county 687
commissioners. If the fair market value of the property to be 688
sold pursuant to this division is, in the opinion of the board 689
of supervisors, in excess of two thousand dollars, notice of the 690
time, place, and manner of the sale shall also be published in a 691
newspaper of general circulation in the district at least ten 692
days prior to such sale. The ~~supervisors board~~ may authorize the 693
sale of such personal property without advertisement or public 694
notification and competitive bidding to the federal government, 695
the state, or any political subdivision of the state. 696

If the ~~supervisors conduct~~ board conducts a sale of 697
personal property by sealed bid, the form of the bid shall be as 698
prescribed by the ~~supervisors board~~, and each bid shall contain 699
the name of the person submitting it. Bids received shall be 700
opened and tabulated at the time stated in the notice. The 701
property shall be sold to the highest bidder, except that the 702
~~supervisors board~~ may reject all bids and hold another sale, by 703
public auction or sealed bid, in the manner prescribed by this 704
section. 705

(B) Where the ~~supervisors find~~ board finds, by resolution, 706
that the district has vehicles, equipment, or machinery that is 707
not needed, or is unfit for public use, and the ~~supervisors~~ 708
~~desire board desires~~ to sell such vehicles, equipment, or 709
machinery to the person or firm from which ~~they propose it~~ 710
proposes to purchase other vehicles, equipment, or machinery, 711
the ~~supervisors board~~ may offer to ~~sell do both of the~~ 712
following: 713

(1) Sell the vehicles, equipment, or machinery to such 714
person or firm, ~~and to have~~ 715

(2) Have such selling price credited to the person or firm 716
against the purchase price of other vehicles, equipment, or 717
machinery. 718

(C) Where the ~~supervisors advertise~~ board advertises for 719
bids for the sale of new vehicles, equipment, or machinery to 720
the district, ~~they it~~ may include in the same advertisement a 721
notice of ~~their its~~ willingness to ~~accept do both of the~~ 722
following: 723

(1) Accept bids for the purchase of district-owned 724
vehicles, equipment, or machinery that is obsolete or not needed 725

for public use⁷²; and to have 726

(2) Have the amount of such bids subtracted from the 727
selling price of the other vehicles, equipment, or machinery as 728
a means of determining the lowest responsible bidder. 729

Sec. 940.11. (A) Not later than three months after ~~the~~ 730
~~effective date of this amendment~~ November 2, 2018, the board of 731
supervisors of a soil and water conservation district that hold 732
a credit card account on ~~the effective date of this amendment~~ 733
November 2, 2018, shall adopt a written policy for the use of 734
credit card accounts. Otherwise, the ~~supervisors board~~ shall 735
adopt a written policy before first holding a credit card 736
account. 737

The policy shall include provisions addressing all of the 738
following: 739

(1) The ~~supervisors~~ members of the board or positions 740
authorized to use a credit card account; 741

(2) The types of expenses for which a credit card account 742
may be used; 743

(3) The procedure for acquisition, use, and management of 744
a credit card account and presentation instruments related to 745
the account including cards and checks; 746

(4) The procedure for submitting itemized receipts to the 747
fiscal agent or the fiscal agent's designee; 748

(5) The procedure for credit card issuance, credit card 749
reissuance, credit card cancellation, and the process for 750
reporting lost or stolen credit cards; 751

(6) The district's credit card account's maximum credit 752
limit or limits; 753

(7) The actions or omissions by an officer or employee 754
that qualify as misuse of a credit card account. 755

(B) The name of the soil and water conservation district 756
shall appear on each presentation instrument related to the 757
account including cards and checks. 758

(C) If the fiscal agent of the district does not retain 759
general possession and control of the credit card account and 760
presentation instruments related to the account including cards 761
and checks, the ~~supervisors board~~ shall appoint a compliance 762
officer to perform the duties enumerated under division (D) of 763
this section. The compliance officer may not use a credit card 764
account and may not authorize a ~~supervisor board member~~ or 765
employee to use a credit card account. The fiscal agent is not 766
eligible for appointment as compliance officer. 767

(D) The compliance officer, if applicable, and the 768
~~supervisors board~~ at least quarterly shall review the number of 769
cards and accounts issued, the number of active cards and 770
accounts issued, the cards' and accounts' expiration dates, and 771
the cards' and accounts' credit limits. 772

(E) If the fiscal agent retains general possession and 773
control of the credit card account and presentation instruments 774
related to the account including cards and checks, and the 775
~~supervisors board~~ authorize a ~~supervisor board member~~ or 776
employee to use a credit card, the fiscal agent may use a system 777
to sign out credit cards to the authorized users. The ~~supervisor~~ 778
~~board member~~ or employee is liable in person and upon any 779
official bond the ~~supervisor member~~ or employee has given to the 780
district to reimburse the district treasury the amount for which 781
the ~~supervisor member~~ or employee does not provide itemized 782
receipts in accordance with the policy described in division (A) 783

of this section. 784

(F) The use of a credit card account for expenses beyond 785
those authorized by the ~~supervisors~~board constitutes misuse of 786
a credit card account. A ~~supervisor~~board member or employee of 787
a soil and water conservation district or a public servant as 788
defined under section 2921.01 of the Revised Code who knowingly 789
misuses a credit card account held on behalf of a soil and water 790
conservation district violates section 2913.21 of the Revised 791
Code. 792

(G) The fiscal agent or the fiscal agent's designee 793
annually shall file a report with the ~~supervisors~~board 794
detailing all rewards received based on the use of the soil and 795
water conservation district's credit card account. 796

(H) As used in this section, "credit card account" means 797
any bank-issued credit card account, store-issued credit card 798
account, financial institution-issued credit card account, 799
financial depository-issued credit card account, affinity credit 800
card account, or any other card account allowing the holder to 801
purchase goods or services on credit or to transact with the 802
account, and any debit or gift card account related to the 803
receipt of grant moneys. "Credit card account" does not include 804
a procurement card account, gasoline or telephone credit card 805
account, or any other card account where merchant category codes 806
are in place as a system of control for use of the card account. 807

Sec. 940.12. The board of county commissioners of each 808
county in which there is a soil and water conservation district 809
may levy a tax within the ten-mill limitation and may 810
appropriate money from the proceeds of the levy or from the 811
general fund of the county. The money shall be held in a special 812
fund for the credit of the district, to be expended for the 813

purposes prescribed in section 940.08 of the Revised Code or 814
under the policy adopted under section 940.11 of the Revised 815
Code, for construction and maintenance of improvements by the 816
district, and for other expenses incurred in carrying out the 817
program of the district upon the written order of the fiscal 818
agent for the district after authorization by a majority of the 819
board of supervisors of the district. 820

Sec. 940.13. (A) The prosecuting attorney of a county in 821
which there is a soil and water conservation district ~~shall be~~ 822
is the legal adviser of the district. The prosecuting attorney 823
~~shall be~~ is the legal counsel of such district in all civil 824
actions brought by or against it and shall conduct all such 825
actions in the prosecuting attorney's official capacity. The 826
board of supervisors of a district may also employ such 827
attorneys as may be necessary or desirable in the operations of 828
the district. 829

(B) The prosecuting attorney of a lead county that is 830
represented on a joint board of supervisors created under 831
section 940.34 of the Revised Code is the legal advisor of the 832
joint board in all civil actions brought by or against the joint 833
board. The prosecuting attorney shall conduct all such actions 834
in the prosecuting attorney's official capacity. The joint board 835
may employ other attorneys as may be necessary or desirable in 836
the operations of the joint board. 837

Sec. 940.19. (A) An owner of land that is located in a 838
soil and water conservation district may file a petition with 839
the board of supervisors of the district requesting the 840
construction of a conservation work of improvement. ~~Upon the~~ 841
~~receipt of such a petition, the supervisors shall make a~~ 842
~~preliminary determination to accept or reject the petition.~~ 843

A petition may be rejected if the supervisors determine. 844
Prior to filing a petition, the petitioner shall consult with 845
the district to discuss the proposed drainage improvement and to 846
determine the proper forms and procedures for filing the 847
petition. 848

(B) The petition shall include all of the following: 849

(1) A statement of the nature of the work for which a 850
petition is filed, including locating, cleaning, removing 851
obstructions from, constructing, reconstructing, straightening, 852
deepening, widening, altering, boxing, tiling, filling, walling, 853
or arching any ditch, drain, watercourse, floodway, creek, run, 854
or river; changing the course, location, or terminus thereof; or 855
constructing a levee, wall, embankment, jetty, dike, dam, 856
sluice, revetment, reservoir, holding basin, control gate, 857
breakwater, or other structure for the control of water; 858

(2) A description, including location, of the course and 859
termini of the proposed improvement and the branches, spurs, or 860
laterals, if any are petitioned for; 861

(3) A statement that the construction of the improvement 862
is necessary and will benefit the petitioner; and 863

(4) A statement that all costs of engineering, 864
construction, and future maintenance will be assessed to the 865
benefiting parcels of land. 866

(C) The board shall make a preliminary determination to 867
accept or reject the petition at the board's next scheduled 868
meeting. 869

(D) (1) The board may reject the petition for any of the 870
following reasons: 871

(a) The board determines that the information that ~~it the~~
petition contains about the proposed improvement is insufficient
to enable the ~~supervisors board~~ to proceed with the petition
under this chapter ~~or if the~~.

(b) The petition appears to be frivolous. ~~The supervisors~~
~~also may reject a petition on the grounds that the~~.

(c) The district lacks sufficient staff or other resources
to proceed with the improvement in accordance with this chapter.
~~if~~

(2) If the ~~supervisors reject a board rejects the~~
petition, ~~they it~~ shall notify the petitioner in writing of the
reasons for the rejection. ~~A The petitioner may amend a petition~~
that ~~was is~~ rejected due to insufficient information ~~may be~~
~~supplemented with additional information and filed again may~~
subsequently file the amended petition with the board.

(E) If the ~~supervisors accept a board accepts the~~ petition
for a proposed improvement, ~~they the board~~ shall ~~establish do~~
both of the following:

(1) Establish a date and time for a view of the proposed
improvement, ~~which~~. The date shall be not fewer than ~~twenty~~
~~five thirty~~ nor more than ninety days after the date on which
the petition was ~~filed accepted~~. The ~~supervisors board~~ shall
designate a convenient ~~place near the proposed improvement~~
location at which the view shall ~~start occur~~.

~~Upon receipt of a petition, the supervisors also shall~~
~~establish~~ (2) Establish a date and time on and at which and
designate a location at which ~~they the board~~ will hold a hearing
on the proposed improvement. The hearing shall occur not ~~later~~
fewer than thirty nor more than ninety days after the date

established for the view.

(F) If a petitioner proposes an improvement that would be located in two or more adjoining soil and water conservation districts, the board of supervisors that receives the petition shall provide notice of the petition to the board of supervisors of each other county in which the proposed improvement would be located. The boards then shall create a joint board of supervisors under section 940.34 of the Revised Code and proceed in accordance with that section.

Sec. 940.20. ~~As soon as the supervisors of a soil and water conservation district have established the dates, times, and locations of the view and the hearing concerning a proposed improvement, they shall send, at~~ (A) At least twenty-two ~~twenty-one~~ days prior to the date established for the view, the board of supervisors of a soil and water conservation district shall send a written notice of the view and the hearing to ~~the~~ all landowners within the area to be benefited by the proposed improvement and to the board of county commissioners and the county engineer. The board shall ensure that the notice contains all of the following:

(1) The date, time, and location for the view and the subsequent hearing;

(2) A description of the proposed improvement and its location as stated in the petition, a map indicating the location of the proposed improvement or information on where to access the map, and an explanation of how to obtain additional information or ask questions about the proposed improvement;

(3) A statement that all costs of engineering, construction, and future maintenance will be assessed to the

benefiting parcels of land; 930

(4) A statement that a landowner may file, not more than 931
twenty-one days after the date of the view, an amendment to the 932
original petition that expands the length of the proposed 933
improvement, provided that the amendment does not expand the 934
area to be benefited by the proposed improvement; 935

(5) A statement that any landowner receiving the notice 936
may comment on the proposed improvement in writing before or in 937
person at the hearing on the petition; 938

(6) The address at which to file an amendment to the 939
petition or submit written comments on the proposed improvement. 940

(B) The ~~supervisors board~~ shall notify all landowners that 941
are adjacent to the proposed improvement either by certified 942
mail or, if the ~~supervisors have board has~~ record of an internet 943
identifier of record associated with such a landowner, by 944
ordinary mail and by that internet identifier of record, and 945
shall notify all others by certified mail or first class 946
mailings. ~~Any such~~ The written notice shall have the words 947
"Legal Notice" printed in plain view on the face of the envelope 948
or, in the case of service by an internet identifier of record, 949
in conspicuous typeface at the top of the notice. ~~In addition,~~ 950
~~the supervisors~~ 951

(C) The board shall invite to the view and the hearing the 952
staff of the soil and water conservation district and the staff 953
of the natural resources conservation service in the United 954
States department of agriculture that is involved with the 955
district together with any other people that the ~~supervisors~~ 956
~~consider~~ board considers to be necessary to the proceedings. 957

(D) As used in this section, "internet identifier of 958

record" has the same meaning as in section 9.312 of the Revised
Code.

Sec. 940.21. (A) On the date established for the view of a
proposed improvement, the board of supervisors of a soil and
water conservation district or its designee shall ~~meet at the~~
~~designated location near the proposed improvement at the~~
~~established time. At that time, they shall hear proof of the~~
~~need for the proposed improvement offered by any landowner that~~
~~is affected by it.~~

~~The supervisors shall view the area in which the proposed~~
~~improvement is to be constructed. If the proposed improvement is~~
~~a ditch, the view shall include the line of the proposed ditch~~
~~and each branch, lateral, or spur of the ditch that is mentioned~~
~~in the petition. If~~ present an overview of the proposed
improvement. In the presentation, the board or its designee
shall use methods and means that the board determines will
adequately inform those attending the view about the proposed
improvement's location and the drainage issues intended to be
addressed by the proposed improvement.

(B) Upon the request made at the view of a member of the
board or of a landowner in the area to be benefited by the
proposed improvement, the board or its designee shall recess the
view and reconvene at a site along the proposed improvement for
the purpose of gaining additional information about the drainage
issue intended to be addressed by the proposed improvement. If
the area to be viewed is extensive, the ~~supervisors~~ board or its
designee may conduct the view on more than one day and may
adjourn from day to day, or a longer period, until the view is
completed.

Sec. 940.22. (A) Upon acceptance of a petition requesting

the construction of an improvement, the board of supervisors of 989
a soil and water conservation district shall begin to prepare, 990
~~as a guide to the board of county commissioners and the~~ 991
~~petitioners,~~ a preliminary report regarding the proposed 992
improvement. The ~~supervisors~~ board shall present the completed 993
preliminary report at the hearing that is held on the proposed 994
improvement. 995

(B) The board shall ensure that the preliminary report 996
~~shall include a~~ includes all of the following: 997

(1) A preliminary estimate of the cost, ~~comments of~~ 998
construction for the proposed improvement; 999

(2) Comments on the feasibility of the ~~project, and a~~ 1000
proposed improvement; 1001

(3) A statement of the ~~supervisors'~~ board's opinion as to 1002
whether the benefits from the ~~project~~ proposed improvement are 1003
likely to exceed the estimated cost. ~~The preliminary report~~ 1004
~~shall identify;~~ 1005

(4) A list of all factors ~~that are apparent to the~~ 1006
~~supervisors~~ identified by the board, both favorable and 1007
unfavorable to the proposed improvement, so that the petitioners 1008
may be informed concerning what is involved with the 1009
construction of the proposed improvement. 1010

(C) In addition to ~~reporting~~ preparing a preliminary 1011
report on the improvement as petitioned, the ~~supervisors~~ board 1012
may submit alternate proposals to accomplish the intent of the 1013
petition. ~~The~~ 1014

(D) The preliminary report and all alternate proposals 1015
shall be reviewed and receive concurrence from an engineer who 1016
is employed by the department of agriculture or by the natural 1017

resources conservation service in the United States department 1018
of agriculture and who is responsible for providing technical 1019
assistance to the district or from any other registered 1020
professional engineer ~~whom~~ selected by the board of supervisors 1021
~~choose.~~ 1022

Sec. 940.23. (A) On the date and at the time established 1023
by the board of supervisors for the hearing on a petition for a 1024
proposed improvement, the ~~supervisors of a soil and water~~ 1025
~~conservation district board~~ shall conduct the hearing. ~~Prior to~~ 1026
~~the hearing, landowners affected by the proposed improvement may~~ 1027
~~file objections to it with the supervisors, and at the hearing~~ 1028
~~the supervisors shall hear any objections so filed. In addition~~ 1029
At the hearing, the supervisors board shall present their do 1030
both of the following: 1031

(1) Present the board's preliminary report on the proposed 1032
~~improvement and shall hear;~~ 1033

(2) Hear any comments or evidence offered by any landowner 1034
for or against ~~construction of~~ the proposed improvement. ~~If~~ 1035

(B) If necessary, the hearing may occur on more than one 1036
~~day and may be adjourned from day to day or for a longer time~~ 1037
~~that board may recess and continue the hearing on subsequent~~ 1038
days as may be reasonable to consider additional information 1039
about the proposed improvement or so that all interested 1040
landowners may have an opportunity to ~~be heard in favor of or in~~ 1041
~~opposition to comment on~~ the proposed improvement. 1042

(C) At the conclusion of the hearing, the board shall vote 1043
to decide whether to proceed with a project survey and design or 1044
to dismiss the petition. In making its decision, the board shall 1045
take into consideration all of the following: 1046

(1) The petition; 1047

(2) The preliminary report; 1048

(3) Comments on the proposed improvement; 1049

(4) The protection of environmentally significant areas 1050
when those areas could be adversely affected by the construction 1051
of the proposed improvement and, if necessary, alternative plans 1052
providing for that protection and for construction of the 1053
proposed improvement. 1054

(D) The board may proceed with the project survey and 1055
design for a proposed improvement if both of the following 1056
apply: 1057

(1) The board finds that a proposed improvement is 1058
necessary and is conducive to the public welfare. 1059

(2) The board is reasonably certain that the benefits of 1060
the proposed improvement will outweigh its costs. 1061

Sec. ~~940.26~~ 940.24. ~~Upon approval by~~ After a vote of the 1062
~~board of supervisors of a soil and water conservation district~~ 1063
~~of a petition to proceed with a project survey and design for a~~ 1064
proposed improvement, the ~~supervisors board or their~~ its 1065
designee shall conduct all necessary surveys for the proposed 1066
improvement. In addition, the ~~supervisors board or their~~ its 1067
designee shall prepare plans for constructing the improvement 1068
~~and shall prepare maps showing the location of the land that is~~ 1069
~~proposed to be assessed in accordance with section 940.33 of the~~ 1070
~~Revised Code for the improvement.~~ 1071

~~The supervisors or their designee shall prepare~~ 1072
~~specifications.~~ The plans shall include all of the following: 1073

(A) Specifications for construction of the improvement ~~and~~ 1074

~~shall specify dimensions;~~

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(B) Dimensions of any temporary easement that is necessary
for construction purposes. ~~In addition, the supervisors or their
designee shall make estimates of the cost of material and any
excavation costs. The construction of the improvement may be
divided into construction areas if that would be expedient.;~~

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(C) In the case of an improvement that is a ditch or
similar structure for the disposal of water, ~~the specifications
for its construction that the supervisors or their designee must
prepare shall provide for spreading provisions for all of the
following:~~

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(1) Spreading and leveling of spoil banks ~~and shall
provide for erosion;~~

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(2) Erosion and sediment control through the establishment
of a sod or seeded strip or other such controls if suitable
vegetative cover is not present. With regard to sod or seeded
strips, the board shall ensure that the plan provides that such
strips will be not fewer than four ten feet nor more than
fifteen feet wide, measured at right angles to the top of the
ditch bank on both sides of the ditch, except where suitable
vegetative cover exists. The strip Sod or seeded strips or other
such controls shall be are considered to be part of the
permanent improvement. Sod The board or its designee shall
report to the county auditor the total acreage of sod or seeded
strips or other such controls that are established and
maintained in excess of four feet shall be compensated for by
their removal accordance with this chapter. The county auditor
shall remove the total acreage of sod or seeded strips or other
such controls from the taxable valuation of the property of
which they are a part.

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~~The supervisors or their designee shall make note~~ (D) An 1105
analysis of all fences, floodgates, culverts, bridges, and other 1106
structures that will be removed or adjusted in constructing the 1107
improvement. ~~The supervisors or their designee also shall make~~ 1108
~~note;~~ 1109

(E) An analysis of any gates that need to be installed in 1110
existing fences in order to provide access to the improvement 1111
for maintenance purposes. The plan shall require gates shall to 1112
be locked when requested by the owner of the fence ~~and shall be~~ 1113
~~considered to be a~~. Gates are part of the original improvement 1114
and subject to maintenance along with the improvement. 1115

~~The supervisors shall submit the plans, specifications,~~ 1116
~~and other information prepared in accordance with this section~~ 1117
~~to the board of county commissioners of each county in which the~~ 1118
~~proposed improvement is to be located.~~ 1119

Sec. 940.25. (A) After preparing the project survey, 1120
design, and plans for constructing the proposed improvement, the 1121
board of supervisors of a soil and water conservation district 1122
shall prepare a schedule of damages as part of the estimate of 1123
the total cost of constructing the proposed improvement. 1124

(B) The schedule of damages shall include both of the 1125
following: 1126

(1) An estimate of the value of land or other property 1127
necessary to be acquired through purchase or voluntary transfer 1128
or appropriated in accordance with sections 163.01 to 163.62 of 1129
the Revised Code and a description of that land or other 1130
property; 1131

(2) An estimate of the total damages to be sustained by 1132
any landowner as a result of the construction and subsequent 1133

maintenance of a proposed improvement, along with the name and 1134
address of each landowner that is alleged to be damaged, the 1135
amount of each landowner's estimated damages, and an explanation 1136
of each landowner's damages. 1137

Sec. 940.26. After preparing a schedule of damages, the 1138
board of supervisors of a soil and water conservation district 1139
or its designee shall make an estimate of the cost of the 1140
proposed improvement. The estimate shall include all of the 1141
following: 1142

(A) Actual construction costs, including costs of 1143
addressing the construction specifications set forth in section 1144
940.24 of the Revised Code; 1145

(B) The estimated costs included in the schedule of 1146
damages prepared under section 940.25 of the Revised Code; 1147

(C) Any expenses incurred in investigations, consulting 1148
services, and notifications related to the proposed improvement, 1149
and any other incidental costs. 1150

Sec. 940.27. (A) After preparing an estimate of the cost 1151
of a proposed improvement, the board of supervisors of a soil 1152
and water conservation district or its designee shall prepare a 1153
schedule of estimated assessments on land within the area that 1154
will be benefited by a proposed improvement. The board shall 1155
include in the schedule the name and address of each landowner 1156
whose parcel of land will be benefited by the proposed 1157
improvement and a description of each landowner's parcel. The 1158
board shall obtain the names, addresses, and descriptions from 1159
the tax duplicates of the county. 1160

(B) In determining the estimated assessment on a parcel of 1161
land, the board or its designee shall do both of the following: 1162

- (1) Use the information compiled in accordance with 1163
sections 940.24 to 940.26 of the Revised Code; 1164
- (2) Consider, and incorporate when applicable, the 1165
following factors in the calculations: 1166
- (a) Acreage of the parcel; 1167
- (b) Volume of water produced by the parcel; 1168
- (c) Distance of the parcel from the proposed improvement; 1169
- (d) Percentage of the proposed improvement to be used by 1170
the parcel; 1171
- (e) The construction of works that are determined to 1172
solely benefit the particular parcel; 1173
- (f) Soil types of the parcel; 1174
- (g) The county auditor's land value or current 1175
agricultural use value, if applicable, of the parcel; 1176
- (h) Existing drainage infrastructure that can be 1177
incorporated into the proposed improvement and associated cost 1178
savings; 1179
- (i) Any other factors pertinent to the proposed 1180
improvement and the watershed that will be affected by the 1181
proposed improvement; 1182
- (j) Any benefits as defined in section 6131.01 of the 1183
Revised Code. 1184
- (C) Unless the board determines for good cause that a 1185
lower amount is appropriate, the board shall not establish an 1186
estimated assessment for a parcel of land in an amount less than 1187
twenty-five dollars, including the cost of preparing and mailing 1188
the notice required under section 940.32 of the Revised Code. If 1189

a dwelling is located on a lot that comprises two or more 1190
contiguous parcels of land, the board may establish an estimated 1191
assessment of not less than twenty-five dollars for all of the 1192
parcels, including the cost of preparing and mailing the notice 1193
required under section 940.32 of the Revised Code. 1194

(D) The board shall ensure that the total of the estimated 1195
assessments, including the total estimated assessments allocated 1196
to public corporations and the state, is not greater than the 1197
estimated cost of the proposed improvement. 1198

Sec. 940.28. After a board of supervisors of a soil and 1199
water conservation district completes the schedule of estimated 1200
assessments, the board shall submit the petition, preliminary 1201
report, surveys, plans, specifications, schedule of damages, 1202
cost estimates, estimated assessments, and any other information 1203
obtained or prepared for the petition to the board of county 1204
commissioners of the county in which the proposed improvement is 1205
to be located. 1206

Sec. 940.29. (A) Upon receiving the information submitted 1207
by a board of supervisors of a soil and water conservation 1208
district under section 940.28 of the Revised Code, the board of 1209
county commissioners shall establish the date, time, and 1210
location of a hearing regarding the proposed improvement. 1211

(B) At least twenty-one days prior to the date established 1212
for the hearing, the clerk of the board of county commissioners 1213
shall send a written notice of the hearing by certified mail to 1214
all landowners that are adjacent to the proposed improvement. 1215
The clerk shall send such notice by certified or first class 1216
mail to all other landowners within the area to be benefited by 1217
the proposed improvement, the board of supervisors of the 1218
applicable soil and water conservation district, and the county 1219

engineer. The clerk shall include all of the following in the 1220
notice: 1221

(1) The date, time, and location of the hearing; 1222

(2) A description of any easement on the landowner's 1223
property that is necessary for purposes of the improvement; 1224

(3) A landowner's estimated assessment; 1225

(4) A statement that a landowner may file comments on the 1226
proposed improvement and exceptions to the estimated assessment 1227
in writing before the hearing or in person at the hearing; 1228

(5) The address at which to submit written comments on the 1229
proposed improvement and exceptions to the estimated assessment. 1230

(C) The clerk shall include printed words in plain view on 1231
the envelope containing the notice that read "Legal Notice of 1232
Proposed Drainage Improvement." 1233

Sec. 940.30. (A) On the date established for the hearing, 1234
the board of county commissioners shall conduct the hearing by 1235
doing both of the following: 1236

(1) Presenting the project design, construction plans, 1237
schedule of damages, cost estimates, and estimated assessments 1238
for the proposed improvement as submitted by the board of 1239
supervisors of the applicable soil and water conservation 1240
district; 1241

(2) Hear any comments offered by any landowner regarding 1242
the estimated assessments and proposed improvement. 1243

(B) If necessary, the board of county commissioners may 1244
adjourn and continue the hearing on subsequent days as may be 1245
reasonable to consider additional information about the proposed 1246

improvement, make changes that will better accomplish the 1247
purpose and object of the proposed improvement, or allow all 1248
interested landowners to have an opportunity to comment on the 1249
proposed improvement. 1250

~~Sec. 940.29 940.31.~~ Upon receipt of a certification under 1251
~~section 940.25 of the Revised Code, the board of county~~ 1252
~~commissioners shall, within sixty days, approve or disapprove~~ 1253
~~construction of the improvement. If a board disapproves~~ 1254
~~construction of the improvement, the supervisors may revise the~~ 1255
~~plan for the improvement and again proceed under section 940.25~~ 1256
~~of the Revised Code. If the board of county commissioners of~~ 1257
~~each county containing any of the territory included in the~~ 1258
~~project area approves construction of the improvement, the~~ 1259
~~board, or if there is more than one such county, the joint board~~ 1260
~~formed under section 940.31 of the Revised Code, has in addition~~ 1261
~~to its other powers, the powers of a soil and water conservation~~ 1262
~~district granted by division (C) of section 940.06 of the~~ 1263
~~Revised Code.~~ 1264

~~When considering whether to approve or disapprove~~ 1265
~~construction of an improvement, the board shall consider all of~~ 1266
~~the following factors:—~~ 1267

~~(A) The cost of location and construction;—~~ 1268
~~(B) The compensation for land or other property that must~~ 1269
~~be taken;—~~ 1270

~~(C) The benefits to the public welfare;—~~ 1271
~~(D) The benefits to land, public corporations, and the~~ 1272
~~state needing the improvement;—~~ 1273

~~(E) In the case of an improvement involving the drainage~~ 1274
~~of water, the effect on land below the improvement that may be~~ 1275

~~caused by constructing the improvement and the sufficiency or~~ 1276
~~insufficiency of the outlet that receives flow from the~~ 1277
~~improvement;~~ 1278

~~(F) Any other proper matter that will assist the board in~~ 1279
~~approving or disapproving construction of the improvement.~~ 1280

(A) At the conclusion of the hearing conducted under 1281
section 940.30 of the Revised Code, the board of county 1282
commissioners shall vote to approve or dismiss the petition. 1283

(B) The board may approve the petition if the board is 1284
reasonably certain that: 1285

(1) The benefits of the proposed improvement outweigh the 1286
costs. 1287

(2) The proposed improvement is necessary. 1288

(3) The proposed improvement will be conducive to the 1289
public welfare. 1290

(4) The proposed route and mode of construction of the 1291
improvement will improve water management and development in the 1292
county in which the district is located to the advantage of 1293
lands located in it. 1294

(5) The proposed improvement will aid lands in the area by 1295
promoting the economic, environmental, or social development of 1296
the area. 1297

(C) When, in the opinion of the board of county 1298
commissioners, it is necessary for the board to acquire real 1299
property or a right-of-way or other easement for a conservation 1300
works of an improvement project under this chapter, the board 1301
may make the acquisition through purchase or voluntary transfer, 1302
or the board may appropriate the real property or right-of-way 1303

or other easement in accordance with sections 163.01 to 163.62 1304
of the Revised Code. 1305

(D) If the board approves ~~construction of the~~ a petition 1306
for an improvement, the county engineer shall file with the 1307
county recorder a property plat showing the ~~general~~ landowners 1308
of record and parcel numbers along the improvement, location of 1309
the improvement, and ~~a statement describing the dimensions the~~ 1310
width of any permanent easement that is necessary for 1311
maintenance of the improvement granted in section 6137.12 of the 1312
Revised Code. ~~In~~ The county engineer may do both of the 1313
following: 1314

(1) Include the permanent easement in the county's 1315
geographic information systems or other mapping system, if 1316
available; 1317

(2) File with the county recorder an affidavit listing the 1318
landowners of record and parcel numbers subject to the permanent 1319
easement and note the affidavit in the property plat. 1320

In the case of an improvement that is an open ditch, 1321
provisions that govern the permanent easement for maintenance of 1322
the ditch that are established in section 6137.12 of the Revised 1323
Code ~~shall~~ apply. 1324

(E) A board of county commissioners shall follow 1325
competitive bidding requirements in sections 307.86 to 307.91 of 1326
the Revised Code, ~~except that in constructing an improvement.~~ 1327
However, the board may designate the board of supervisors of a 1328
soil and water conservation district as the contracting agency 1329
and it. The board of supervisors shall follow division (H) of 1330
section 940.06 of the Revised Code, ~~or except that if.~~ If the 1331
improvement is being undertaken through the joint efforts and 1332

cooperation of the board of county commissioners or board of 1333
supervisors and another state or federal agency, and if the 1334
state or federal regulations or procedures are in conflict with 1335
those sections with respect to the procedures for the preparing 1336
of contracts, the issuing of bids, the making of awards, and 1337
generally the administering of the contracts, the board of 1338
county commissioners or board of supervisors may adopt the state 1339
or federal regulations or procedures in those areas where 1340
conflict exists and proceed with the improvement in accordance 1341
with the requirements of the state or federal regulations or 1342
procedures. 1343

(F) If a board of county commissioners does not approve a 1344
petition for a proposed improvement, the applicable board of 1345
supervisors may revise the proposed improvement and submit the 1346
revision to the board of county commissioners for 1347
reconsideration of the petition. 1348

~~Sec. 940.33~~ 940.32. (A) ~~Following receipt of a~~ 1349
~~certification made by the supervisors of a soil and water~~ 1350
~~conservation district pursuant to section 940.25 of the Revised~~ 1351
~~Code together with receipt of all plans, specifications, and~~ 1352
~~estimates submitted under that section and upon completion of a~~ 1353
~~schedule of estimated assessments in accordance with section~~ 1354
~~940.30 of the Revised Code, If the board of county commissioners~~ 1355
~~may approves a petition under section 940.31 of the Revised~~ 1356
Code, the board shall adopt a resolution levying upon the 1357
property within the project area an to be benefited by an 1358
improvement a uniform or varied assessment at a uniform or 1359
~~varied rate based upon the benefit to the area certified by the~~ 1360
~~supervisors, as necessary to pay the cost of construction of the~~ 1361
improvement not otherwise funded and to repay advances made for 1362
purposes of the improvement from the fund created by section 1363

940.16 of the Revised Code. In adopting the resolution, the 1364
board shall take into consideration the estimated assessments 1365
prepared by the board of supervisors of the soil and water 1366
conservation district under section 940.27 of the Revised Code. 1367
~~The board of county commissioners shall direct the person or~~ 1368
~~authority preparing assessments to give primary consideration,~~ 1369
~~in determining a parcel's estimated assessments relating to the~~ 1370
~~disposal of water, to the potential increase in productivity~~ 1371
~~that the parcel may experience as a result of the improvement~~ 1372
~~and also to give consideration to the amount of water disposed~~ 1373
~~of, the location of the property relative to the project, the~~ 1374
~~value of the project to the watershed, and benefits. The part of~~ 1375
~~the assessment that is found to benefit state, county, or~~ 1376
~~township roads or highways or municipal streets shall be~~ 1377
~~assessed against the state, county, township, or municipal~~ 1378
~~corporation, respectively, payable from motor vehicle revenues.~~ 1379
~~The part of the assessment that is found to benefit property~~ 1380
~~owned by any public corporation, any political subdivision of~~ 1381
~~the state, or the state shall be assessed against the public~~ 1382
~~corporation, the political subdivision, or the state and shall~~ 1383
~~be paid out of the general funds or motor vehicle revenues of~~ 1384
~~the public corporation, the political subdivision of the state,~~ 1385
~~or the state, except as otherwise provided by law.~~ 1386

~~(B) The assessment shall be certified to the county~~ 1387
~~auditor and by the county auditor to the county treasurer. The~~ 1388
~~collection of the assessment shall conform in all matters to~~ 1389
~~Chapter 323. of the Revised Code.~~ 1390

~~(C) Any land owned and managed by the department of~~ 1391
~~natural resources for wildlife, recreation, nature preserve, or~~ 1392
~~forestry purposes is exempt from assessments if the director of~~ 1393
~~natural resources determines that the land derives no benefit~~ 1394

from the improvement. In making such a determination, the 1395
director shall consider the purposes for which the land is owned 1396
and managed and any relevant articles of dedication or existing 1397
management plans for the land. If the director determines that 1398
the land derives no benefit from the improvement, the director 1399
shall notify the board of county commissioners, within thirty 1400
days after receiving the assessment notification required by 1401
this section, indicating that the director has determined that 1402
the land is to be exempt and explaining the specific reason for 1403
making this determination. The board of county commissioners, 1404
within thirty days after receiving the director's exemption 1405
notification, may appeal the determination to the court of 1406
common pleas. If the court of common pleas finds in favor of the 1407
board of county commissioners, the department of natural 1408
resources shall pay all court costs and legal fees. 1409

~~(D) (1)~~ (B) The board of county commissioners shall give 1410
notice by first class mail to every public and private property 1411
owner whose property is subject to assessment, at the tax 1412
mailing or other known address of the owner. The notice shall 1413
contain ~~a~~ all of the following: 1414

(1) A statement of the amount to be assessed against the 1415
property of the addressee, ~~a~~ ; 1416

(2) A description of the method used to determine the 1417
necessity for and the amount of the proposed assessment, ~~a~~ ; 1418

(3) A description of any easement on the property that is 1419
necessary for purposes of the improvement, ~~and a statement that~~ 1420
~~the addressee may file an objection in writing at the office of~~ 1421
~~the board of county commissioners within thirty days after the~~ 1422
~~mailing of notice. If~~ ; 1423

(4) A statement that an owner may file written exceptions 1424
to the amount of the assessments with the clerk of the board of 1425
county commissioners within thirty days of the date of the 1426
notice. 1427

(C) If the residence of any owner cannot be ascertained, 1428
or if any mailed notice is returned undelivered, the board shall 1429
publish the notice to all such owners in a newspaper of general 1430
circulation within the project area to be benefited by the 1431
improvement, once each week for three weeks or as provided in 1432
section 7.16 of the Revised Code. The notice shall include the 1433
information contained in the mailed notice, ~~but shall state that~~ 1434
~~the owner may file an objection in writing at the office of the~~ 1435
~~board of county commissioners within thirty days after the last~~ 1436
~~publication of the notice.~~ 1437

~~(2) Upon receipt of objections as provided in this~~ 1438
~~section, the board shall proceed within thirty days to hold a~~ 1439
~~final hearing on the objections by fixing a date and giving~~ 1440
~~notice by first class mail to the objectors at the address~~ 1441
~~provided in filing the objection. If any mailed notice is~~ 1442
~~returned undelivered, the board shall give due notice to the~~ 1443
~~objectors in a newspaper of general circulation in the project~~ 1444
~~area or as provided in section 7.16 of the Revised Code, stating~~ 1445
~~the time, place, and purpose of the hearing. Upon hearing the~~ 1446
~~objectors, the board may adopt a resolution amending and~~ 1447
~~approving the final schedule of assessments and shall enter it~~ 1448
~~in the journal.~~ 1449

~~(3) Any owner whose objection is not allowed may appeal~~ 1450
~~within thirty days to the court of common pleas of the county in~~ 1451
~~which the property is located.~~ 1452

~~(4) The board of county commissioners shall make an order~~ 1453

~~approving the levying of the assessment and shall proceed under
section 6131.23 of the Revised Code after one of the following
has occurred, as applicable:~~

~~(a) Final notice is provided by mail or publication.~~

~~(b) The imposition of assessments is upheld in the final
disposition of an appeal that is filed pursuant to division (D)
(3) of this section.~~

~~(c) The resolution levying the assessments is approved in
a referendum that is held pursuant to section 305.31 of the
Revised Code.~~

~~(5) The (D) If an owner files an exception to the
estimated assessment, the board, within thirty days of the date
of the filing, shall establish a date and time for hearing the
exception to the estimated assessments. The board may hear each
owner's exception in an individual hearing or hear all
exceptions in a single hearing. Not less than fourteen days
prior to the hearing date, the clerk of the board shall notify
each owner who filed an exception of the date and time of the
owner's exception hearing. Upon hearing the objector's
exceptions, the board may adopt a resolution amending and
approving the final schedule of estimated assessments and shall
enter it in the journal.~~

If the board amends the final schedule of estimated
assessments after hearing exceptions, the clerk of the board
shall send by certified or first class mail a written notice of
the revised final schedule of estimated assessments to all
owners within the area to be benefited by the improvement. The
notice shall contain both of the following:

(1) The amount of the final estimated assessment for the

owner's property; 1483

(2) A statement that an owner may appeal the final 1484
estimated assessment to the applicable court of common pleas 1485
pursuant to section 940.38 of the Revised Code within twenty-one 1486
days of the notice of final estimated assessment. 1487

(E) The board shall certify the schedule of final 1488
estimated assessments to the county auditor, who shall certify 1489
the assessments to the county treasurer. The collection of the 1490
assessments shall be made in accordance with Chapter 323. of the 1491
Revised Code. 1492

(F) The county treasurer shall deposit the proceeds of the 1493
assessment in the fund designated by the board and shall report 1494
to the county auditor the amount of money from the assessment 1495
that is collected by the treasurer. Moneys shall be expended 1496
from the fund for purposes of the improvement. 1497

~~(E)~~ (G) Any moneys collected in excess of the amount 1498
needed for construction of the improvement and the subsequent 1499
first year's maintenance may be maintained in a fund to be used 1500
for maintenance of the improvement. In any year subsequent to a 1501
year in which an assessment for construction of an improvement 1502
levied under this section has been collected, and upon 1503
determination by the board of county commissioners that funds 1504
are not otherwise available for maintenance or repair of the 1505
improvement, the board shall levy on the property within the 1506
~~project area~~ to be benefited by the improvement an assessment 1507
for maintenance at a uniform percentage of all construction 1508
costs based upon the assessment schedule used in determining the 1509
construction assessment. The assessment is not subject to the 1510
provisions concerning notice and petition contained in this 1511
section. An assessment for maintenance shall not be levied in 1512

any year in which the unencumbered balance of funds available 1513
for maintenance of the improvement exceeds twenty per cent of 1514
the cost of construction of the improvement, except that the 1515
board may adjust the level of assessment within the twenty per 1516
cent limitation, or suspend temporarily the levying of an 1517
assessment, for maintenance purposes as maintenance funds are 1518
needed. 1519

(H) For the purpose of levying an assessment for 1520
maintenance of an improvement, a board may use the procedures 1521
established in Chapter 6137. of the Revised Code regarding 1522
maintenance of improvements as defined in section 6131.01 of the 1523
Revised Code in lieu of using the procedures established under 1524
this section. 1525

~~(F)~~ (J) The board of county commissioners may issue bonds 1526
and notes as authorized by section 131.23 or 133.17 of the 1527
Revised Code. 1528

~~Sec. 940.34~~ 940.33. (A) A board of county commissioners 1529
may declare by resolution that it is necessary to levy a tax 1530
upon the property within the ~~project~~-area to be benefited by an 1531
improvement in order to pay the costs of the improvement not 1532
otherwise funded. 1533

~~Such~~ The resolution shall specify ~~the~~ all of the 1534
following: 1535

(1) The rate that it is necessary to levy, ~~the purpose~~ 1536
~~thereof, and the~~; 1537

(2) The purpose of the tax levy; 1538

(3) The number of years during which ~~such the~~ increase 1539
~~shall be~~ is in effect, which ~~levy~~ may include ~~a levy upon the~~ 1540
~~duplicate of~~ the current year. 1541

(B) A copy of the resolution shall be certified to the
board of elections for the county not less than ninety days
before the general election in any year and the board shall
submit the proposal to the electors within the ~~project~~-area to
be benefited by an improvement at the succeeding November
election in accordance with section 5705.25 of the Revised Code.
For purposes of that section, the subdivision is the ~~project~~-
area to be benefited by an improvement.

(C) If the per cent required for approval of a levy as set
forth in section 5705.26 of the Revised Code vote in favor
thereof, the board of county commissioners may levy a tax within
the ~~project~~-area to be benefited by an improvement, outside the
ten-mill limitation, during the period and for the purpose
stated in the resolution, or at any less rate or for any less
number of years.

(D) The board may issue bonds and notes in anticipation of
the collection of taxes levied under this section, and notes in
anticipation of the issuance of bonds.

Sec. 940.34. (A) Upon receiving a petition pursuant to
section 940.19 of the Revised Code for a proposed improvement
that would be located in two or more adjoining soil and water
conservation districts, the board of supervisors of the
adjoining districts shall, with approval of the Ohio soil and
water conservation commission, create a joint board of
supervisors. Each district shall have the same number of
supervisors on the joint board. However, if the membership of
the joint board would be an even number, an additional
supervisor from the lead county shall be designated.

(B) A joint board of supervisors shall exercise the same
powers, execute the same duties, and follow the same procedures

in connection with an improvement under this chapter as the 1572
board of supervisors of a single soil and water conservation 1573
district with the following conditions: 1574

(1) For purposes of making a preliminary determination to 1575
accept or reject a petition in accordance with section 940.19 of 1576
the Revised Code, the joint board shall make the determination 1577
within sixty days of the approval of the creation of the joint 1578
board. 1579

(2) For purposes of a petition, the joint board shall do 1580
both of the following: 1581

(a) Send the petition and accompanying information to the 1582
board of county commissioners of the lead county; and 1583

(b) Send notification of the need for the creation of a 1584
joint board of county commissioners under section 940.35 of the 1585
Revised Code to the board of county commissioners of each county 1586
in the area to be benefited by the proposed improvement. 1587

(C) Upon the creation of a joint board of supervisors, the 1588
elected officials in the lead county, including the engineer, 1589
recorder, auditor, prosecutor, treasurer, judges, and clerk of 1590
the board of county commissioners, shall serve as the 1591
administrative officers for the joint board of supervisors. 1592

~~**Sec. 940.31**~~ **940.35.** ~~The boards of county commissioners of~~ 1593
~~all the counties containing any of the territory included in the~~ 1594
~~project area, if all such counties have approved construction of~~ 1595
~~an improvement under section 940.29 of the Revised Code, are a~~ 1596
~~joint board of county commissioners for the improvement. (A) If~~ 1597
~~a proposed improvement would affect more than one county, the~~ 1598
~~board of county commissioners from each of the counties that~~ 1599
~~would be affected by the proposed improvement shall meet on a~~ 1600

date fixed by the clerk of the board of county commissioners of 1601
the lead county. The boards shall meet in the lead county to 1602
organize a joint board of county commissioners and elect a 1603
president, which shall be the first order of business at the 1604
hearing. 1605

(B) A joint board of county commissioners may do all the 1606
things that a board of county commissioners may do in connection 1607
with the improvement and shall proceed as if it were a board of 1608
county commissioners representing a county that included all the 1609
territory within the project area shall exercise the same 1610
powers, execute the same duties, and follow the same procedures 1611
in connection with an improvement under this chapter as the 1612
board of county commissioners of a single county. 1613

~~The joint board may agree to apportion any cost of the~~ 1614
~~improvement, or expenses incurred in connection therewith, not~~ 1615
~~paid by assessments or taxes levied for the improvement, or~~ 1616
~~funds other than county funds, among the participating counties.~~ 1617

~~The joint board shall elect one of its members president~~ 1618
~~and designate a clerk of one of the boards of county~~ 1619
~~commissioners of the participating counties as clerk of the~~ 1620
~~joint board. A majority of the county commissioners constituting~~ 1621
~~the joint board constitutes a quorum. All decisions of the joint~~ 1622
~~board shall be made by a majority vote of the county~~ 1623
~~commissioners constituting the joint board.~~ 1624

~~For the purpose of bringing a referendum petition against~~ 1625
~~a soil and water conservation project under section 305.31 of~~ 1626
~~the Revised Code, a resolution adopted by a joint board of~~ 1627
~~county commissioners shall be considered to be a resolution~~ 1628
~~adopted by the board of county commissioners of each county in~~ 1629
~~the project area. The electors of any county in the project area~~ 1630

~~may file a petition for referendum under that section against a~~ 1631
~~resolution adopted by the joint board of county commissioners as~~ 1632
~~if it had been adopted by the board of county commissioners for~~ 1633
~~that county. The referendum shall be conducted only in the~~ 1634
~~county in which the referendum petition was filed. The electors~~ 1635
~~of any county in the project area in which no referendum~~ 1636
~~petition was filed shall not be eligible to vote in the~~ 1637
~~referendum, and the outcome of a referendum shall have effect~~ 1638
~~only in the county in which the referendum was held. Any county~~ 1639
~~in the project area in which a referendum is not held remains~~ 1640
~~subject to the provisions of the resolution adopted by the joint~~ 1641
~~board of county commissioners for the soil and water~~ 1642
~~conservation district.~~ 1643

(C) The clerk of the board of county commissioners of the 1644
lead county shall do all of the following: 1645

(1) Act as clerk and administrator of the joint board; 1646

(2) Enter the findings of the joint board in the journal 1647
of the board of county commissioners of the lead county; 1648

(3) Make the final record of the improvement in the lead 1649
county; 1650

(4) Provide copies of all proceedings to the clerks of the 1651
boards of all affected counties. 1652

(D) A majority of the county commissioners constituting 1653
the joint board shall constitute a quorum. All decisions of the 1654
joint board shall be made by a majority vote of the quorum 1655
present at a meeting of the joint board. 1656

(E) The director of agriculture shall be an ex officio 1657
member of the joint board and may participate, in person or 1658
through a designated representative, in deliberations and 1659

proceedings of the joint board. The director shall have no vote 1660
on any proceedings of the joint board except in the case of a 1661
tie for or against an improvement. If the director or the 1662
director's designee is not present at the proceeding, the 1663
director shall review the proceedings and cast the deciding vote 1664
within thirty days of the proceeding. A failure to cast a vote 1665
for or against the improvement within thirty days constitutes an 1666
affirmative vote for the improvement. The clerk shall record the 1667
final resolution of the tie. 1668

(F) Upon the creation of a joint board of county 1669
commissioners, the elected officials in the lead county, 1670
including the engineer, recorder, auditor, prosecutor, 1671
treasurer, judges, and clerk of the board of county 1672
commissioners, shall serve as the administrative officers for 1673
the joint board of county commissioners. 1674

~~**Sec. 940.32 940.36.** The county auditor and county~~ 1675
~~treasurer of one of the counties represented by a joint board of~~ 1676
~~county commissioners under section 940.31 of the Revised Code,~~ 1677
~~to be designated by the joint board, shall ex officio become the~~ 1678
~~fiscal agents of all the participating counties. Such (A) The~~ 1679
~~auditor of the lead county shall certify to the auditor of the~~ 1680
~~other counties a schedule of any taxes or assessments to be~~ 1681
~~levied for the improvement, and the auditor of such other county~~ 1682
~~immediately shall proceed forthwith to place such tax or~~ 1683
~~assessment upon the duplicates. Taxes or assessments so~~ 1684
~~certified for collection to an auditor of another county are a~~ 1685
~~lien on the land within such county from the date such~~ 1686
~~certificate is received by the auditor of such other county. The~~ 1687

(B) The treasurer of each county shall proceed to collect 1688
the same any taxes or assessments levied for the improvement 1689

pursuant to the orders made in the proceedings of the joint 1690
board of county commissioners, and such taxes or assessments 1691
when collected shall be paid to the treasurer for the joint 1692
board. ~~The~~ 1693

(C) The auditor and treasurer of the lead county shall 1694
receive and account for ~~such funds any taxes or assessments~~ 1695
levied for the improvement in the same manner as they would for 1696
taxes or assessments collected within their county. The 1697
treasurer and auditor of the lead county with their bondspersons 1698
are liable on their official bonds for any misappropriation of 1699
such funds. All warrants for the payment of costs in connection 1700
with the improvement shall be drawn by the auditor ~~designated~~ 1701
~~under this section of the lead county~~, on the treasurer of the 1702
lead county, payable out of the fund designated by the joint 1703
board to receive moneys for the improvement. 1704

~~Sec. 940.35~~ 940.37. The board of county commissioners, or, 1705
if a joint board of county commissioners has been created under 1706
section ~~940.31~~ 940.35 of the Revised Code, the joint board, 1707
shall maintain the ~~works of improvement~~ improvements constructed 1708
~~by the board for a soil and water conservation district under~~ 1709
this chapter. For that purpose, the board of county 1710
commissioners or joint board may use procedures and requirements 1711
established in ~~sections 6137.08 to 6137.14~~ Chapter 6137. of the 1712
Revised Code and may contract with or authorize the board of 1713
supervisors or joint board of supervisors of a soil and water 1714
conservation district to perform maintenance of such works of 1715
improvement. 1716

Sec. 940.38. Any affected landowner may appeal to the 1717
appropriate court of common pleas any action or determination of 1718
a board of supervisors, joint board of supervisors, board of 1719

county commissioners, or joint board of county commissioners 1720
under this chapter. The affected landowner shall make the appeal 1721
within thirty days of the date of the action or determination. 1722
The appeal may be based on, but is not limited to, any of the 1723
following questions: 1724

(A) Is the improvement necessary? 1725

(B) Will the improvement be conducive to the public 1726
welfare? 1727

(C) Is the cost of the improvement greater than the 1728
benefits conferred? 1729

(D) Is the route, termini, or mode of construction the 1730
best to accomplish the purpose of the improvement? 1731

(E) Are the assessments levied according to benefits? 1732

(F) Is the award for compensation or damages just? 1733

Sec. 940.39. (A) For purposes of this section, references 1734
to a "board of supervisors of a soil and water conservation 1735
district" or a "board" includes a joint board of supervisors of 1736
a soil and water conservation district. 1737

(B) Notwithstanding any other provision of law to the 1738
contrary, a board of supervisors of a soil and water 1739
conservation district, when practicable, may conduct meetings by 1740
video conference or, if video conference is not available, by 1741
teleconference. The board of supervisors shall make provisions 1742
for public attendance at any location involved in such a 1743
meeting. The board shall establish the board's main office or 1744
board room as the primary meeting location for the video 1745
conference or teleconference. The conference shall be held at 1746
that location in an open meeting at which the public is allowed 1747

to attend. 1748

(C) Before convening a meeting of a board of supervisors 1749
by video conference or by teleconference, designated staff shall 1750
send, via electronic mail, facsimile, or United States postal 1751
service, a copy of meeting-related documents to each member of 1752
the board. 1753

(D) The minutes of each drainage improvement meeting shall 1754
specify who was attending by teleconference, who was attending 1755
by video conference, and who was physically present. Any vote 1756
taken in a meeting held by teleconference that is not unanimous 1757
shall be recorded as a roll call vote. 1758

(E) Nothing in section 121.22 of the Revised Code 1759
prohibits a board of supervisors from conducting a meeting in a 1760
manner authorized by this section. 1761

Sec. 6131.01. As used in sections 6131.01 to 6131.64 of 1762
the Revised Code: 1763

(A) "Owner" means any owner of any right, title, estate, 1764
or interest in or to any real property and includes persons, 1765
partnerships, associations, private corporations, public 1766
corporations, boards of township trustees, boards of education 1767
of school districts, the mayor or legislative authority of a 1768
municipal corporation, the director of any department, office, 1769
or institution of the state, and the trustees of any state, 1770
county, or municipal public institution. "Owner" also includes 1771
any public corporation and the director of any department, 1772
office, or institution of the state affected by an improvement 1773
but not owning any right, title, estate, or interest in or to 1774
any real property. 1775

(B) "Land" includes any estate or interest, of any nature 1776

or kind, in or to real property, or any easement in or to real 1777
property, or any right to the use of real property, and all 1778
structures or fixtures attached to real property, including but 1779
not restricted to all railroads, roads, electric railroads, 1780
street railroads, streets and street improvements, telephone, 1781
telegraph, and transmission lines, underground cables, gas, 1782
sewage, and water systems, pipe lines and rights of way of 1783
public service corporations, and all other real property whether 1784
public or private. 1785

(C) "Improvement" includes: 1786

(1) The location, construction, reconstruction, 1787
reconditioning, widening, deepening, straightening, altering, 1788
boxing, tiling, filling, walling, arching, or any change in the 1789
course, location, or terminus of any ditch, drain, watercourse, 1790
or floodway; 1791

(2) The deepening, widening, or straightening or any other 1792
change in the course, location, or terminus of a river, creek, 1793
or run; 1794

(3) A levee or any wall, embankment, jetty, dike, dam, 1795
sluice, revetment, reservoir, holding basin, control gate, 1796
breakwater, or other structure for the protection of lands from 1797
the overflow from any stream, lake, or pond, or for the 1798
protection of any outlet, or for the storage or control of 1799
water; 1800

(4) The removal of obstructions such as silt bars, log 1801
jams, debris, and drift from any ditch, drain, watercourse, 1802
floodway, river, creek, or run; 1803

(5) The vacating of a ditch or drain. 1804

(D) "Person" means natural person, firm, partnership, 1805

association, or corporation, other than public corporations. 1806

(E) "Public corporation" or "political subdivision" means 1807
counties, townships, municipal corporations, school districts, 1808
park districts, turnpikes, toll bridges, conservancy districts, 1809
and all other governmental agencies clothed with the power of 1810
levying general or special taxes. 1811

(F) (1) "Benefit" or "benefits," except as ordered in 1812
section 6131.31 of the Revised Code, means advantages to land 1813
and owners, to public corporations as entities, and to the state 1814
resulting from drainage, conservation, control and management of 1815
water, and environmental, wildlife, and recreational 1816
improvements. Factors relevant to whether such advantages result 1817
include: 1818

~~(1)~~ (a) The watershed or entire land area drained or 1819
affected by the improvement; 1820

~~(2)~~ (b) The total volume of water draining into or through 1821
the improvement and the amount of water contributed by each land 1822
owner; 1823

~~(3)~~ (c) The use to be made of the improvement by any 1824
owner, public corporation, or the state. 1825

(2) "Benefit" or "benefits" includes, but is not limited 1826
to, any or all of the following factors: ~~elimination~~ 1827

(a) Elimination or reduction of damage from ~~flood~~ 1828
flooding; removal 1829

(b) Removal of water conditions that jeopardize public 1830
health, safety, or welfare; ~~increased~~ 1831

(c) Increased value of land resulting from ~~the an~~ 1832
improvement; ~~use~~ 1833

(d) The use of water for irrigation, storage, regulation 1834
of stream flow, soil conservation, water supply, or any other 1835
incidental purpose ~~incidental thereto; providing~~ 1836

(e) Providing an outlet for the accelerated runoff from 1837
artificial drainage ~~whenever the~~ if a stream, watercourse, 1838
channel, or ditch that is under improvement is called upon to 1839
discharge functions for which it was not designed ~~by nature; it~~ 1840
~~being the legislative intent that uplands~~. Uplands that have 1841
been removed from their natural state by deforestation, 1842
cultivation, artificial drainage, urban development, or other 1843
~~man-made causes~~ human methods shall be considered ~~as to be~~ 1844
benefited by an improvement that is required to dispose of the 1845
accelerated flow of water from the uplands. 1846

(G) "Environmentally significant areas" mean natural land 1847
or water areas that in some degree retain or have reestablished 1848
their natural character or have other features of scientific or 1849
educational interest such as rare or endangered plant and animal 1850
populations or geologic, scenic, or other natural features and, 1851
because of their values and functions, contribute to the 1852
community's general welfare. 1853

(H) "Days" means calendar days. 1854

Sec. 6131.04. (A) Any owner may file a petition for the 1855
construction of a drainage improvement with the clerk of the 1856
board of county commissioners of the county in which is located 1857
a part of the land ~~that is averred proposed to be benefited by~~ 1858
benefit from the construction of a proposed improvement. Prior 1859
to filing a petition, the petitioner shall consult with the 1860
county engineer of the county in which the petition will be 1861
filed to discuss the proposed drainage improvement and to 1862
determine the proper forms and procedures for filing the 1863

petition. 1864

(B) The petition shall state ~~that the construction of the~~ 1865
~~improvement is necessary, will benefit the petitioner, and will~~ 1866
~~be conducive to the public welfare; shall state the all of the~~ 1867
~~following:~~ 1868

(1) The nature of the work petitioned for; ~~and may ask to~~ 1869
~~locate, clean, remove, which may include locating, cleaning,~~ 1870
~~removing obstructions from, construct, reconstruct, straighten,~~ 1871
~~deepen, widen, alter, box, tile, fill, wall constructing,~~ 1872
~~reconstructing, straightening, deepening, widening, altering,~~ 1873
~~boxing, tiling, filling, walling, or arch arching any ditch,~~ 1874
~~drain, watercourse, floodway, creek, run, or river or to change~~ 1875
~~; changing the course, location, or terminus thereof;~~ 1876
~~or may~~ 1877
~~ask to construct constructing a levee, wall, embankment, jetty,~~ 1878
~~dike, dam, sluice, revetment, reservoir, holding basin, control~~ 1879
~~gate, breakwater, or other structure for control of water. The~~ 1879
~~petition shall state the ;~~ 1880

(2) The course and termini of the proposed improvement and 1881
~~the branches, spurs, or laterals, if any are petitioned for.~~ 1882
~~Except as ordered under section 6131.31 of the Revised Code, the~~ 1883
~~petition shall state that ;~~ 1884

(3) That the construction of the improvement is necessary 1885
~~and will benefit the petitioner;~~ 1886

(4) That all costs of engineering, construction, and 1887
~~future maintenance will be assessed to the benefiting parcels of~~ 1888
~~land. The petition shall contain a , except as ordered under an~~ 1889
~~appeal filed in accordance with section 6131.31 of the Revised~~ 1890
~~Code;~~ 1891

(5) A list of the names and addresses, where known, of all 1892

the owners of the land that the petitioner or the county 1893
engineer claims will be benefited or damaged by the construction 1894
of the proposed improvement, as determined by the county 1895
engineer. ~~The petition shall be signed by one~~ 1896

(C) One or more owners must sign the petition as the 1897
petitioners. If the petitioner is a public corporation or the 1898
state, ~~the petition shall be signed by its authorized~~ 1899
representative must sign the petition. 1900

(D) If the petitioner is the county, the petition shall 1901
must be filed with the clerk of the court of common pleas 1902
without the bond required under section 6131.06 of the Revised 1903
Code, the matters in the petition shall be heard by the common 1904
pleas court as if the petition had come to the court on appeal, 1905
and the clerk and the court shall do all things that sections 1906
6131.01 to 6131.64 of the Revised Code provide that the county 1907
commissioners shall do. The court of common pleas may appoint a 1908
board of arbitrators ~~to assume the duties of the judge. The~~ 1909
~~board shall be comprised of three disinterested persons chosen~~ 1910
~~by the judge, who owners in the county and shall designate one~~ 1911
of the persons to be chairman chairperson. ~~A decision of the~~ 1912
~~board shall require approval of a majority of the members. The~~ 1913
appointed board shall hear and act on the petition in accordance 1914
with this chapter. Either party may appeal the board's decision 1915
to the court of common pleas, ~~which shall decide the case on the~~ 1916
~~record of arbitration.~~ 1917

Sec. 6131.05. ~~The petition referred to in section 6131.04~~ 1918
~~of the Revised Code may be amended upon the written application~~ 1919
~~of any~~ (A) Any benefiting owner filed may file an amendment to a 1920
petition for a drainage improvement that expands the length of 1921
the proposed improvement, provided that such amendment does not 1922

expand the area to be benefited by the proposed improvement. An 1923
owner shall file the amendment not more than twenty-one days 1924
after the date of the view. Such owner shall not propose an 1925
amendment that expands either the area or number of parcels to 1926
be benefited by the proposed improvement, but shall file a new 1927
petition regarding the proposal in accordance with section 1928
6131.04 of the Revised Code. 1929

(B) A benefiting owner shall file an amendment with the 1930
clerk of the board of county commissioners~~and upon the~~ 1931
~~allowance of the application by the board of county~~ 1932
~~commissioners, by an order entered on its journal.~~ 1933

~~The petition may be amended while the proceedings are~~ 1934
~~pending on appeal in the court of common pleas, pursuant to the~~ 1935
~~rules and laws relating to civil procedure. If the petitioner is~~ 1936
~~the county, the application for amendment shall be filed with~~ 1937
~~the clerk of the court of common pleas and shall be heard~~ 1938
~~pursuant to the rules and laws relating to civil procedure. Any~~ 1939
~~written application for amendment of the petition shall include~~ 1940
~~the information required for the petition in section 6131.04 of~~ 1941
~~the Revised Code, including names and addresses of the~~ 1942
~~additional owners that the petitioner seeking amendment or the~~ 1943
~~county engineer claims will be benefited or damaged by the~~ 1944
~~proposed improvement. Any application, remonstrance, statement,~~ 1945
~~report, or schedule filed in any improvement proceedings may be~~ 1946
~~amended as a petition may be amended, as provided in this~~ 1947
~~section~~ not more than twenty-one days after the view required by 1948
section 6131.07 of the Revised Code and shall include the 1949
information required by section 6131.04 of the Revised Code 1950
along with the amendment. 1951

(C) If the petition was filed by the county under division 1952

(D) of section 6131.04 of the Revised Code, any proposed 1953
amendment to the petition shall be filed with the clerk of the 1954
court of common pleas or with the board appointed under that 1955
division. If the amendment is filed with the clerk of the court 1956
of common pleas, the court shall hear the amendment pursuant to 1957
the rules and laws relating to civil procedure. 1958

Sec. 6131.06. (A) The petitioner shall file with the 1959
petition referred to in section 6131.04 of the Revised Code a 1960
bond in the ~~penal~~ sum of one thousand five hundred dollars, plus 1961
the sum of ~~two~~ five dollars for each parcel of land in excess of 1962
two hundred parcels ~~averred in the petition to be benefited,~~ 1963
~~with at least two sureties who are freeholders of the county, or~~ 1964
~~with surety by a surety company authorized to do business in~~ 1965
~~this state, or with cash that are listed in the petition as~~ 1966
lands that will benefit from the improvement. 1967

(B) The bond shall be made payable to the county, to the 1968
credit of the general drainage improvement fund or a special 1969
fund created for the proposed improvement, and conditioned to 1970
~~pay the cost of notices, plus any other incidental expenses,~~ 1971
~~except the costs incurred by the engineer in making his~~ 1972
~~preliminary reports~~ all costs associated in preparing for the 1973
view and first hearing if the ~~prayer of the~~ petition is not 1974
granted or if the petition is for any cause dismissed ~~unless the~~ 1975
~~board of county commissioners decides to pay the engineer's~~ 1976
~~costs from the petitioners' bond in accordance with section~~ 1977
~~6131.09 of the Revised Code.~~ 1978

(C) The ~~bond~~ clerk of the board of county commissioners 1979
~~shall be released~~ release the bond at the expiration of the 1980
~~twenty one day~~ thirty-day appeal period provided for in section 1981
6131.25 of the Revised Code after an order of to proceed with 1982

the project by the commissioners board at the first hearing or 1983
at the termination of the appeal. 1984

Sec. ~~6131.57~~ 6131.061. (A) The clerk of the board of 1985
county commissioners ~~and the county engineer~~ shall maintain a 1986
~~permanent file~~ for the proposed improvement containing a record 1987
of the petition, ~~the applications and remonstrances filed, the~~ 1988
amendments, comments, notices, proceedings, resolutions, orders 1989
~~made by the board, the preliminary estimates, and preliminary~~ 1990
~~report of the county engineer, the reports of review by the~~ 1991
~~director of natural resources, the director of transportation,~~ 1992
~~and the directors of any conservancy district, the reports of~~ 1993
~~the engineer as to the construction of the improvement, and such~~ 1994
~~other matter as is proper for any other record regarding the~~ 1995
proposed improvement that is filed with the board. ~~A record of~~ 1996
~~the assessments levied, pursuant to the order of the board, as~~ 1997
~~corrected after the completion of the contract, and the~~ 1998
~~schedules of payments for compensation and damages shall be kept~~ 1999
~~by the~~ 2000

(B) The county auditor engineer shall maintain a file for 2001
the proposed improvement that contains a record of the petition, 2002
amendments to the petition, all reports, estimates, surveys, 2003
maps, plans, drawings, schedules, and other documents prepared 2004
for the proposed improvement by the engineer or the engineer's 2005
designee, and any reports of the director of natural resources, 2006
director of transportation, and directors of any conservancy 2007
districts. ~~The clerk of~~ 2008

(C) After the final hearing of the board of county 2009
~~commissioners shall, after the final hearing of the board of~~ 2010
~~county commissioners~~ or after the final judgment, order, or 2011
decree has been rendered upon any appeal, the clerk of the board 2012

of county commissioners shall file with the county engineer all 2013
maps, profiles, and plans of the improvement, which shall be 2014
filed together with an annual record of maintenance and repair, 2015
and may transfer to, the county engineer the file maintained 2016
pursuant to division (A) of this section. Upon receiving the 2017
file, the county engineer shall maintain the file as the 2018
permanent project file, together with an annual record of 2019
maintenance and repairs for the improvement. 2020

(D) The county auditor shall maintain a record of the 2021
estimated and final assessments levied for the improvement, and 2022
the schedules of payments for compensation and damages. 2023

Sec. 6131.07. (A) When the a petition authorized by is 2024
filed under section 6131.04 of the Revised Code is filed with 2025
the clerk of the board of county commissioners, the clerk shall 2026
give notice of the petition to the board of county commissioners 2027
and ~~to~~ the county engineer. 2028

(B) The board of county commissioners shall, by an order 2029
upon its journal, fix do both of the following: 2030

(1) Establish a date and hour for the a view of the 2031
proposed improvement, which shall be ~~not fewer than twenty-five~~ 2032
~~nor more than ninety~~ between thirty and one hundred twenty days 2033
after the date on which the petition was filed with the clerk. 2034
~~The board shall designate a convenient place near the proposed~~ 2035
~~improvement at which the view shall start. The board shall also~~ 2036
~~fix;~~ 2037

(2) Establish a date and hour, not fewer than ten nor more 2038
~~than~~ between thirty and ninety days after the date set for the 2039
view, when it will hold its first hearing ~~at a place designated~~ 2040
~~by it. As soon as the dates for the view and first hearing have~~ 2041

~~been fixed by the board, the clerk shall prepare and mail, at on~~
~~the petition.~~

(C) ~~At least twenty~~ twenty-one days prior to the date set
for the view, the clerk shall send a written notice to the
owners named in the petition and of legal record on the date of
its filing, ~~setting forth the pendency, substance, and prayer of~~
~~the petition, .~~ The clerk shall include all of the following in
the notice:

(1) The date, time, and location for the view and the
first hearing;

(2) A description of the proposed improvement and its
location as stated in the petition, a map indicating the
location of the proposed improvement or information on where to
access such map, and an explanation of how to access additional
information or ask questions about the proposed improvement;

(3) A statement that all costs of engineering,
construction, and future maintenance will be assessed to the
benefiting parcels of land, ~~and the date, hour, and starting~~
~~place of the view and the date, hour, and location of the first~~
~~hearing. For each proposed improvement, all individual notices~~
~~shall be sent by the same type of mail, either certified mail,~~
~~return receipt requested, or first class mail in a five day~~
~~return envelope. Whichever method the board chooses, the ;~~

(4) A statement that an owner may file, not more than
twenty-one days after the date of the view, an amendment to the
petition that expands the length of the proposed improvement,
provided that such amendment does not expand the area to be
benefited by the proposed improvement;

(5) A statement that an owner receiving the notice may

comment on the proposed improvement in writing before or in 2071
person at the public hearings on the petition; 2072

(6) The address at which to file an amendment to the 2073
petition or submit written comments on the proposed amendment or 2074
the petition. 2075

(D) The clerk shall notify all owners that are adjacent to 2076
the proposed improvement by certified mail and shall notify all 2077
other owners by certified mail or first class mailings. The 2078
words "Legal Notice of Proposed Drainage Improvement" shall be 2079
printed in plain view on the face of the envelope. When the 2080
owner is not a natural person, the notice shall be mailed to its 2081
chief officer or managing agent at the usual place of business 2082
in the county. If such an owner is a foreign or domestic 2083
railroad company, regardless of whether the charter thereof 2084
prescribes the manner or place of service of process thereon, 2085
the notice shall be addressed to the property owner of record as 2086
listed by the county auditor on the general tax list. If such an 2087
owner other than a railroad company does not maintain a regular 2088
place of business in the county, then the notice shall be mailed 2089
to the nearest regular place of business of such an owner. ~~The~~ 2090

(E) The clerk shall ~~cause to be published~~ publish a legal 2091
notice in at least one newspaper of general circulation in the 2092
area affected by the proposed improvement, stating the name and 2093
number, if any, of the proposed improvement, the location and 2094
nature of the work proposed in the petition, and the date, time, 2095
and location of the view and first hearing. If the individual 2096
notices are sent by certified mail, the ~~publication clerk shall~~ 2097
~~be publish the notice~~ in one issue of such newspaper, and shall 2098
not ~~be publish the notice~~ less than thirteen days prior to the 2099
date of the view. If the individual notices are sent by first- 2100

class mail in five-day return envelopes, the ~~publication of this~~ 2101
~~clerk shall publish the newspaper notice shall be made in~~ two 2102
issues of the newspaper, and the notice shall include a list of 2103
the names of all addressees whose individual notices were 2104
undelivered. The clerk shall publish the first such publication 2105
~~shall not~~ be less than thirteen days prior to the date of the 2106
view, and the second publication ~~shall not~~ be less than six days 2107
prior to the date of the view. The publication shall serve as 2108
public notice to all owners of the pendency of the improvement 2109
whether or not they were individually named and notified. 2110

Proof of notice by publication shall be verified by 2111
affidavit of the printer or other person knowing the fact, and 2112
the clerk of the board of county commissioners shall prepare a 2113
certificate showing the service of the notices by mail, both of 2114
which shall be filed with the clerk of the board of county 2115
commissioners on or before the day of the first hearing. Notices 2116
returned undelivered and receipts shall be kept on file by the 2117
clerk as part of the permanent record of the improvement. 2118

Sec. 6131.08. ~~Owners~~ Any owner who have has not joined in 2119
~~the a~~ petition authorized by filed in accordance with section 2120
6131.04 of the Revised Code ~~and who are in favor of the~~ 2121
~~improvement may file applications requesting that the~~ 2122
~~improvement be granted and state their reasons therefor. Owners~~ 2123
~~who are opposed to the improvement may file remonstrances~~ 2124
~~against the granting of the improvement and state their reasons~~ 2125
~~therefor. The applications or remonstrances may be filed with~~ 2126
~~the clerk of the board of county commissioners may~~ comment on 2127
the proposed improvement at any time before a final order on the 2128
petition is made by the board of county commissioners ~~confirming~~ 2129
~~the assessments and ordering the letting of the contracts for~~ 2130
~~the construction of the improvement or before a final order is~~ 2131

~~made dismissing the petition. Comments may be made in person at~~ 2132
~~the public hearings on the petition or by filing written~~ 2133
~~comments with the clerk of the board of county commissioners.~~ 2134

Sec. 6131.09. ~~When notified of the filing of a petition~~ 2135
~~authorized by section 6131.04 (A) Upon receiving the notice~~ 2136
~~required under division (A) of section 6131.07 of the Revised~~ 2137
Code, the county engineer shall prepare a preliminary estimate 2138
~~of the cost of report on the proposed improvement. The engineer~~ 2139
~~shall file at the first hearing, as a guide to the commissioners~~ 2140
~~and the petitioners, a preliminary report including his, which~~ 2141
~~shall include all of the following:~~ 2142

(1) A preliminary estimate of the cost, ~~his comment of the~~ 2143
proposed improvement; 2144

(2) Comments on the feasibility of the project, ~~and a ;~~ 2145

(3) A statement of his the engineer's opinion as to 2146
whether benefits from the project are likely to exceed the 2147
estimated cost. ~~The preliminary report shall ;~~ 2148

(4) A list all of factors apparent to the engineer, both 2149
favorable and unfavorable to the proposed improvement, ~~so that~~ 2150
~~the petitioners may be informed as to what is involved.~~ 2151

(B) In addition to reporting on the improvement as 2152
petitioned, the engineer may submit alternate proposals to 2153
accomplish the ~~prayer intent~~ of the petition. 2154

(C) The county commissioners may require the county 2155
engineer to file any additional preliminary reports, ~~of whatever~~ 2156
~~nature,~~ that in the opinion of the board will serve as a guide 2157
to the board and the petitioners in deciding whether to proceed 2158
with the proposed improvement. 2159

(D) The costs incurred by the engineer in making preliminary reports may be paid from the bond of the petitioners if the petition is dismissed at the first hearing, and any amount in excess of the bond shall be paid from county funds. If the engineer's costs are not paid from the petitioners' bond, they shall be paid from county funds.

Sec. 6131.10. ~~The board of county commissioners and the~~
(A) On the date established for the view of a proposed
improvement, the county engineer or its designated
representative shall meet at the designated place near present
an overview of the proposed improvement on the day of, using
methods and means that the board of county commissioners
determines will adequately inform those attending the view fixed
~~as provided in section 6131.07 of the Revised Code and hear the~~
~~proof offered at that time by any owner affected by about the~~
proposed improvement's location and the drainage issues intended
to be addressed by the proposed improvement. The board and the
~~county engineer or his authorized representative shall go over~~
~~and along the line of the proposed improvement and each branch,~~
~~lateral, or spur mentioned in the petition or in any application~~
~~filed therefor. The board shall adjourn the view from day to~~
~~day, or a longer period, until the view is completed. Upon~~
~~completing the view, the board shall adjourn the further hearing~~
~~to the place designated by the board, to the day and hour fixed~~
~~in the notice given. On the day so fixed for the first hearing~~
~~on the petition, the board shall take up the further hearing on~~
~~the petition and on the applications or remonstrances filed. The~~
~~board shall hear the preliminary report of the county engineer~~
~~as provided in section 6131.09 of the Revised Code and shall~~
~~hear any evidence offered by any owner for or against the~~
~~granting of the proposed improvement or for or against the~~

~~granting of any laterals, branches, spurs, or change of route, 2191~~
~~course, termini, or manner of construction described in the 2192~~
~~petition or in any application filed therefor. If any 2193~~
~~applications for branches, laterals, spurs, or change of route 2194~~
~~or course are filed after the view, the board shall fix a time 2195~~
~~to view and shall view them. The first hearing may be adjourned 2196~~
~~from day to day, or for a longer time that may be reasonable, so 2197~~
~~that all interested owners may have an opportunity to be heard 2198~~
~~for or against 2199~~

(B) Upon a request made by a commissioner or an owner in 2200
the area to be benefited by the proposed improvement, the board 2201
of county commissioners shall recess the view and reconvene it 2202
at a site along the proposed improvement for the purpose of 2203
gaining additional information about the drainage issues 2204
intended to be addressed by the proposed improvement. 2205

(C) If the area to be viewed is extensive, the board of 2206
commissioners may conduct the view on more than one day and may 2207
adjourn from day to day, or a longer period, until the view is 2208
completed. 2209

Sec. 6131.101. (A) At the first hearing on a petition for 2210
a proposed improvement, the board of county commissioners shall 2211
do both of the following: 2212

(1) Hear the preliminary report of the county engineer 2213
required under section 6131.09 of the Revised Code; 2214

(2) Hear any evidence offered by any owner for or against 2215
the granting of the proposed improvement or for or against the 2216
granting of any laterals, branches, spurs, or change of route, 2217
course, termini, or manner of construction described in the 2218
petition or in any amendment. 2219

(B) If necessary, the board of county commissioners may 2220
recess and continue the hearing on subsequent days as may be 2221
reasonable to consider additional information about the proposed 2222
improvement or so that all interested owners may have an 2223
opportunity to comment on the proposed improvement. 2224

(C) At the conclusion of the first hearing, the board 2225
shall vote to determine whether to proceed with the project 2226
survey and design or to dismiss the petition, taking into 2227
consideration the petition, the preliminary report, and comments 2228
on the proposed improvement. 2229

Sec. 6131.11. (A) If the board of county commissioners, at 2230
finds at the conclusion of the first hearing, finds for a 2231
proposed improvement that a proposed improvement is not 2232
necessary, ~~or finds that a proposed improvement~~ will not be 2233
conducive to the public welfare, or ~~finds that the estimated~~ 2234
cost of ~~a the~~ proposed improvement will exceed the benefits to 2235
be derived if it is constructed, the board shall dismiss the 2236
petition for the proposed improvement and enter its findings 2237
upon its journal. 2238

(B) Any owner who is affected by the order of dismissal 2239
may appeal to the court of common pleas of the county in which 2240
the petition was filed, as provided in sections 6131.12 to 2241
6131.64 of the Revised Code. If no appeal is filed within 2242
~~twenty one thirty~~ days, pursuant to section 6131.25 of the 2243
Revised Code, the ~~petitioner bond~~ shall ~~pay cover~~ all the costs 2244
incurred in the proceedings ~~and the~~. Any remaining funds from 2245
the bond shall be released returned to the petitioner. 2246

(C) An order issued by the board under this section is 2247
effective on the day of the hearing at which the board issued 2248
it. 2249

Sec. 6131.12. ~~If~~ (A) At the conclusion of the first 2250
hearing on a petition for a proposed improvement, the board of 2251
county commissioners may decide to proceed with the project 2252
survey and design for a proposed improvement if the board finds 2253
that all of the following: 2254

(1) That a proposed improvement is necessary ~~and that it~~ 2255
~~will be;~~ 2256

(2) That the proposed improvement is conducive to the 2257
public welfare, ~~and if the board is;~~ 2258

(3) That it is reasonably certain that the ~~cost thereof~~ 2259
benefits of the proposed improvement will be less than the 2260
~~benefits, it may grant the prayer of the petition. When deciding~~ 2261
~~whether to grant the prayer of the petition, the~~ outweigh its 2262
costs. 2263

(B) The board shall give consideration to the protection 2264
of environmentally significant areas when those areas could be 2265
adversely affected by the construction of the proposed 2266
improvement and, if necessary, to alternative plans providing 2267
for that protection as well as for construction of the proposed 2268
improvement. ~~Upon granting the prayer of the~~ 2269

(C) After deciding to proceed with a petition for a 2270
proposed improvement, the board shall ~~determine~~ do all of the 2271
following: 2272

(1) Determine the route and termini of the proposed 2273
improvement and of the branches, spurs, and laterals thereof and 2274
the manner of constructing the same. ~~On any petition for any~~ 2275
~~improvement of a ditch, drain, watercourse, or levee, the~~ The 2276
board, without request or application, may by its order change 2277
either terminus of the proposed improvement or the route thereof 2278

if it finds that the change is necessary to accomplish the 2279
purposes of the improvement. ~~An order issued by the board under~~ 2280
~~this section granting the prayer of the petition is effective on~~ 2281
~~the day of the hearing at which the board issued it.~~ 2282

~~Upon granting the petition, the board shall order the~~ 2283
~~county auditor to transfer from the general revenue funds of the~~ 2284
~~county, not otherwise appropriated, to the general drainage~~ 2285
~~improvement fund an amount not more than twenty five per cent of~~ 2286
~~the engineer's preliminary estimate. After the twenty one day~~ 2287
~~period for appeal, as provided in section 6131.25 of the Revised~~ 2288
~~Code, has expired and no appeal has been taken, and as soon as~~ 2289
~~the transfer of funds has been authorized, the board shall order~~ 2290

(2) Order the county engineer to prepare the reports, 2291
plans, and schedules as provided in ~~sections 6131.01 to 6131.64~~ 2292
~~of the Revised Code~~ this chapter. It shall fix 2293

(3) Set a date for the filing of ~~the~~ reports, plans, and 2294
schedules by the engineer, allowing such time as is necessary 2295
for the preparation of the reports, plans, and schedules by the 2296
engineer, and such time may be extended from time to time by the 2297
board. 2298

~~The board shall adjourn the hearing on the improvement to~~ 2299
~~the date that it has fixed for the filing of the reports, plans,~~ 2300
~~and schedules by the engineer and adjourn the proceedings from~~ 2301
~~time to time, if necessary, thereafter. No change in the route~~ 2302
~~or termini of any proposed improvement shall be made, no~~ 2303
~~branches, laterals, or spurs shall be granted, and no change~~ 2304
~~shall be made in the nature of the work proposed after the first~~ 2305
~~hearing is completed, except upon application of an interested~~ 2306
~~owner affected by the proposed improvement and upon notice given~~ 2307
~~to all owners affected by the change, as provided in sections~~ 2308

~~6131.01 to 6131.64 of the Revised Code. All the findings and~~ 2309
~~orders of the board shall be entered in its journal.~~ 2310

~~The route of an improvement shall so far as practicable be~~ 2311
~~located so as to avoid running the improvement diagonally across~~ 2312
~~property and shall where practicable follow property lines,~~ 2313
~~section lines, and lines of public highways, but where the line~~ 2314
~~of a public highway is followed, approval must be obtained from~~ 2315
~~the agency owning the highway.~~ 2316

(D) After the thirty-day period for appeal provided under 2317
section 6131.25 of the Revised Code has expired and no appeal 2318
has been filed, the board may order the county auditor to 2319
transfer funds of the county not otherwise appropriated to the 2320
appropriate drainage improvement fund. The board shall not 2321
appropriate an amount that exceeds twenty-five per cent of the 2322
engineer's preliminary cost estimate. 2323

(E) If the board finds for the ~~decides to proceed with a~~ 2324
petition for a proposed improvement, and if the improvement is 2325
being undertaken through the joint efforts and cooperation of 2326
the board and any federal or state agency, and if the federal 2327
regulations, state agency rules, or other procedures of the 2328
cooperating agency are in conflict with Chapter 6131. of the 2329
Revised Code with respect to the procedures for the preparing of 2330
contracts, the issuing of bids, the making of awards, and 2331
generally the administering of the contracts, the board may 2332
adopt the federal regulations, state agency rules, or procedures 2333
in those areas where conflict exists and proceed with the 2334
improvement in accordance with the requirements of the federal 2335
regulations, state agency rules, or procedures. 2336

(F) The board shall enter all of its findings and orders 2337
in the board's journal. An order issued by the board under this 2338

section granting the intent of the petition is effective on the
day of the hearing at which the board issued it.

Sec. 6131.13. The board of county commissioners ~~may hear~~
~~and determine at the same time and under one petition, upon~~
~~proper averments, the following questions:~~

~~(A) The locating of a new ditch, drain, or watercourse, or~~
~~one partly old and partly new, or one partly open and partly~~
~~tilled;~~

~~(B) The deepening, widening, straightening, boxing,~~
~~tiling, or changing of the route or course of, or the altering~~
~~in any manner of, an old ditch, drain, or watercourse;~~

~~(C) The connecting into a single system of two or more~~
~~improvements.~~

~~The board,~~ on application of owners interested or at its
own discretion, may consolidate and treat as a petition for one
improvement petitions pending at the same time for two or more
separate improvements which connect with each other, or which
serve common territory, or which can readily be combined into
one system. In case of such consolidation, the board shall enter
its action upon its journal, and if necessary, it shall order
the county engineer to re-estimate and make such further reports
and schedules as are necessary upon its order consolidating the
improvements. If two or more improvements are consolidated, the
proceedings after consolidation shall be the same as if all the
matters were petitioned for in one petition.

Sec. 6131.14. ~~The~~ (A) Upon the board's determination to
proceed with the project survey and design on a proposed
improvement under section 6131.12 of the Revised Code, the clerk
of the board of county commissioners shall ~~certify immediately~~

forward a copy of the board's findings and orders to the county 2368
engineer immediately, after the requirements of section 6131.12 2369
of the Revised Code have been met, a copy of the findings and 2370
orders of the board of county commissioners in favor of an 2371
improvement. 2372

(B) The county engineer shall make the do all of the 2373
following: 2374

(1) Conduct all necessary survey surveys for the proposed 2375
improvement. The engineer shall make; 2376

(2) Prepare plans for structures; 2377

(3) Create maps showing the location of the land proposed 2378
to be assessed, and profiles showing the cuttings and gradient; 2379

(4) Prepare construction drawings of the improvement and 2380
shall make; 2381

(5) Prepare an estimate of the cost of the construction of 2382
the improvement, which shall include actual construction cost, 2383
the cost of engineering, the cost of the first year maintenance, 2384
and the cost of notices, publication, and other incidental 2385
expenses. The If applicable, the engineer shall may recommend 2386
the maintenance district in which the improvement shall be 2387
placed. The assessment of the improvement for maintenance for 2388
one year shall be added to the cost of construction in making 2389
the actual assessment and shall be credited to the maintenance 2390
fund of the district. 2391

(6) Prepare a schedule of damages that includes both of 2392
the following: 2393

(a) An estimate of the value of land or other property 2394
necessary to be acquired through purchase or voluntary transfer 2395

or appropriated in accordance with section 163.01 to 163.62 of 2396
the Revised Code, and a description of that land or other 2397
property; 2398

(b) An estimate of the total damages to be sustained by 2399
owners as a result of the construction and subsequent 2400
maintenance of a proposed improvement, along with the name and 2401
address of each owner that is alleged to be damaged, the amount 2402
of each owner's estimated damages, and an explanation of each 2403
owner's injury. 2404

(C) The county engineer shall set proper construction 2405
stakes and shall note the intersection of the line of the 2406
improvement with the apparent land boundaries of separate 2407
owners, township and county lines, natural landmarks, road 2408
crossings, or other lines or marks. The engineer shall take and 2409
note any necessary levels off the line of the improvement to 2410
determine the area of the land subject to drainage. 2411

The engineer shall also establish, at intervals of not 2412
less than one in each mile, in the most practicable permanent 2413
form, and in locations where destruction or disturbance is 2414
improbable, bench marks from which the original levels of the 2415
improvement can be established. The bench marks and all levels 2416
of the improvement shall be based upon some established 2417
elevation of the geological survey of the United States, if any, 2418
in the county, and the relation of any assumed elevation used by 2419
the engineer in the work upon any improvement to the elevation 2420
established by the geological survey shall be accurately stated 2421
in the engineer's report. The engineer shall make a plan of the 2422
work proposed to be done, which shall show the grade, the depth, 2423
the excavating to be done, the location of the permanent bench 2424
marks and their actual elevation based on the most recent United 2425

States geological survey data above or below the base elevation 2426
used, and such other data as in the judgment of the engineer 2427
will aid in retracing lines, levels, or other features of the 2428
improvement. The plan shall indicate the profile and the nature 2429
of the excavation. 2430

~~As soon as the engineer has completed the maps, profiles,~~ 2431
~~and plans for the improvement, the~~ (D) (1) The engineer shall 2432
transmit copies ~~thereof~~ of the construction drawings to the 2433
director of natural resources, the director of transportation 2434
when a state highway is affected, and the board of directors of 2435
any conservancy district within which any part of the lands or 2436
streams affected by the proposed improvement may lie. 2437

(2) The director of natural resources, the director of 2438
transportation, and the board of directors of the conservancy 2439
district shall review the plans submitted and within thirty days 2440
file with the county engineer a report indicating approval or, 2441
in case that approval cannot be given, a report with 2442
recommendations. 2443

(3) The approval or report with recommendations, which, 2444
where appropriate, shall include recommendations regarding the 2445
use of best management practices that are consistent with the 2446
prayer of the petition, shall be transmitted by the engineer to 2447
the board of county commissioners, who shall take notice of the 2448
approval or recommendations and shall authorize the engineer to 2449
make any changes or alterations that in the judgment of the 2450
board are necessary or desirable. 2451

(4) Upon receipt of approval of the plans by the director 2452
of natural resources, the director of transportation, and the 2453
board of directors of any conservancy districts affected, or 2454
upon completion of any changes authorized by the board of county 2455

commissioners, the engineer shall file the construction drawings 2456
with the clerk of the board of county commissioners ~~all maps,~~ 2457
~~profiles, and plans as provided by this section.~~ 2458

(E) The engineer shall prepare specifications for the 2459
construction of the improvement. ~~The engineer shall specify a~~ 2460
~~width of temporary easement for construction purposes. The~~ 2461
~~specifications shall provide for that include all of the~~ 2462
following: 2463

(1) The route of an improvement, which, as practicable as 2464
possible, shall be located to avoid running the improvement 2465
diagonally across property and to follow property lines, section 2466
lines, and lines of public highways. However, where the line of 2467
a public street or highway is followed, approval must be 2468
obtained from the governmental entity owning the street or 2469
highway. 2470

(2) The width of the temporary easement for construction 2471
required for the improvement. The specifications shall require 2472
the temporary easement to include spreading and leveling of 2473
spoil banks and shall prohibit the temporary easement from being 2474
more than seventy-five feet from the top of the bank. 2475

(3) The width of the permanent easement required for the 2476
improvement. The specifications shall provide for erosion and 2477
sediment control through the establishment of a sod or seeded 2478
strip not fewer than ~~four~~ ten feet nor more than fifteen feet 2479
wide, measured at right angles to the top of the ditch bank, on 2480
both sides of the ditch, except where suitable vegetative cover 2481
exists. The strip or other such controls shall be considered a 2482
part of the permanent improvement. ~~Sod~~ 2483

(F) The county engineer shall provide to the county 2484

~~auditor the acreages of sod or seeded strips established and~~ 2485
~~maintained in excess of four feet under this section and the~~ 2486
~~county auditor shall be compensated for by their removal remove~~ 2487
the entire amount of each sod or seeded strip from the taxable 2488
valuation of the property of which they are a part. ~~The engineer~~ 2489
~~shall make estimates of the cost of excavating and of the cost~~ 2490
~~of material and may divide the construction of the improvement~~ 2491
~~into construction areas as considered expedient.~~ 2492

(G) The engineer shall make a note of all fences, 2493
floodgates, culverts, or bridges that will be removed in 2494
constructing the improvement and of all culverts or bridges that 2495
must be adjusted or the channel of which must be enlarged to 2496
construct the improvement. 2497

(H) In estimating the cost of an improvement, the engineer 2498
may include the cost of installing gates in fences on the 2499
reserved right-of-way where needed to provide access for 2500
maintenance. The gates shall be kept locked when requested by 2501
the owner and shall be considered a part of the original 2502
improvement and subject to maintenance as provided by ~~sections~~ 2503
~~6137.01 to 6137.12 Chapter 6137.~~ of the Revised Code. 2504

(I) The engineer shall make an estimate of the cost of 2505
inspecting the work as it progresses and shall, with the 2506
assistance of the prosecuting attorney, prepare forms for 2507
contracts with bidders and forms of bid guaranties that meet the 2508
requirements of section 153.54 of the Revised Code. 2509

(J) Upon the acceptance of the contract work, the engineer 2510
shall file with the county recorder a property plat showing the 2511
~~general owners of record and parcel numbers along the drainage~~ 2512
~~improvement, the~~ location of the improvement, and a statement 2513
describing the width of the permanent easement for maintenance 2514

as provided for in ~~section 6137.12~~ Chapter 6137. of the Revised 2515
Code. The engineer may include the permanent easement in the 2516
county's GIS or other mapping system, if available, and may also 2517
file with the county recorder an affidavit listing the owners of 2518
record and parcel numbers subject to the permanent easement and 2519
note the affidavit in the property plat. The engineer shall make 2520
an itemized bill of the costs and expenses incurred in the 2521
proper discharge of duties set forth in this section and shall 2522
file the maps, profiles, plans, schedules, and reports with the 2523
clerk of the board of county commissioners upon completing them. 2524

Sec. 6131.15. (A) The county engineer shall ~~estimate the~~ 2525
prepare a schedule of assessments that includes both of the 2526
following: 2527

(1) The name and address of each private owner of land and 2528
a description of the land to be benefited by the proposed 2529
improvement. The engineer shall obtain the names and 2530
descriptions from the tax duplicates of the county. 2531

(2) The amount of the estimated assessment to be assessed 2532
to each tract of land. An assessment shall not be less than ten 2533
dollars. The total amount of the estimated assessments, 2534
including the total estimated assessments allocated to public 2535
corporations and the state, shall equal the estimated cost of 2536
the proposed improvement. 2537

(3) An explanation of each assessment that is for purposes 2538
other than drainage; 2539

(4) The benefits accruing to ~~public corporations~~ political 2540
subdivisions and any department, office, or institution of the 2541
state. The engineer shall determine the estimated cost of the 2542
improvement that each ~~public corporation~~ political subdivision 2543

and any department, office, or institution of the state shall be 2544
assessed by reason of the benefit to public health, safety, 2545
convenience, the environment, wildlife, recreation, and welfare, 2546
or as the means of improving any street, road, or highway under 2547
the control or ownership of any ~~public corporation~~ political 2548
subdivision or any department, office, or institution of the 2549
state, or for benefit to any land owned by any public 2550
corporation or any department, office, or institution of the 2551
state. The engineer shall prepare a schedule of assessments 2552
containing the name and address of each ~~public corporation~~ 2553
political subdivision and each department, office, or 2554
institution of the state so benefited, the amount of the 2555
estimated assessment, and an explanation of the assessment if 2556
the assessment is for purposes other than drainage. 2557

~~The county engineer shall also include in the schedule of~~ 2558
~~assessments the name and address of each private owner of land~~ 2559
~~and a description of the land believed to be benefited by the~~ 2560
~~proposed improvement, which names and descriptions shall be~~ 2561
~~taken from the tax duplicates of the county. The engineer shall~~ 2562
~~enter in the schedule the amount of the estimated assessment,~~ 2563
~~which in no case shall be less than ten dollars, to be assessed~~ 2564
~~to each tract of land and an explanation of the assessment, if~~ 2565
~~the assessment is for purposes other than drainage, by reason of~~ 2566
~~the construction of the improvement upon which the assessment is~~ 2567
~~based. The total of these estimated assessments including the~~ 2568
~~total estimated assessments allocated to public corporations and~~ 2569
~~the state shall equal the estimated cost of the proposed~~ 2570
~~improvement.~~ 2571

~~In determining the estimated drainage assessments for a~~ 2572
~~parcel, the county engineer shall give primary consideration to~~ 2573
~~the potential increase in productivity that the parcel may~~ 2574

~~experience as a result of the improvement and shall also give~~ 2575
~~consideration to the quantity of drainage contributed, the~~ 2576
~~relative location of the property to the project, the portion of~~ 2577
~~the project through which the drainage from the parcel flows,~~ 2578
~~the value of the project to the watershed, and benefits as~~ 2579
~~defined in section 6131.01 of the Revised Code.~~ 2580

~~The county engineer shall also estimate the value of land~~ 2581
~~or other property necessary to be taken and the damages to be~~ 2582
~~sustained by any owner as a result of the construction of the~~ 2583
~~proposed improvement and the subsequent maintenance of the~~ 2584
~~improvement. The engineer shall prepare a schedule of damages~~ 2585
~~containing the name and address of each owner alleged to be~~ 2586
~~damaged, the amount of the estimated damages, and an explanation~~ 2587
~~of the injury upon which the estimate is based. The engineer's~~ 2588
~~schedule of damages shall also contain the value of the land or~~ 2589
~~other property necessary to be taken, the name and address of~~ 2590
~~the owner, and a complete description of the land or other~~ 2591
~~property. The engineer shall include the total of the estimated~~ 2592
~~damages and valuations as part of his estimate of the total cost~~ 2593
~~of constructing the improvement.~~ 2594

(B) In calculating each estimated assessment, the county 2595
engineer shall do both of the following: 2596

(1) Use the information compiled in accordance with 2597
divisions (B) (5) and (6) of section 6131.14 of the Revised Code; 2598

(2) Consider the following factors: 2599

(a) Acreage of a parcel; 2600

(b) Volume of water produced by a parcel; 2601

(c) Remoteness of the parcel to the improvement; 2602

(d) Percentage of the improvement used by the parcel; 2603

(e) Work determined to benefit that particular parcel only 2604
and not the remainder of parcels in the watershed; 2605

(f) Soils; 2606

(g) County auditor's land value or current agricultural 2607
use value, if applicable; 2608

(h) Existing drainage infrastructure that can be 2609
incorporated into the improvement and associated cost savings; 2610

(i) Any other factors pertinent to that particular 2611
petition and watershed; 2612

(j) Any benefits as defined in section 6131.01 of the 2613
Revised Code. 2614

(C) The county engineer, in making ~~his~~ the estimate of the 2615
amount to be assessed each tract of land, each ~~public~~ 2616
~~corporation~~ political subdivision, and the state in accordance 2617
with this section, and the board of county commissioners, in 2618
amending, correcting, confirming, and approving the assessments 2619
in accordance with section 6131.22 of the Revised Code, shall 2620
levy the assessments according to benefits. Each tract of land 2621
and ~~public corporation~~ political subdivision affected by an 2622
improvement and the state shall be assessed in the proportion 2623
that each is benefited by the improvement, as "benefit" and 2624
"improvement" are defined in section 6131.01 of the Revised 2625
Code, and not otherwise. 2626

Sec. 6131.16. (A) Upon the filing with the clerk of the 2627
board of county commissioners of the reports, plans, and 2628
schedules by the county engineer as provided in section 6131.14 2629
of the Revised Code, the board of county commissioners shall fix 2630

a date not fewer than twenty-five nor more than ninety days 2631
thereafter when a final hearing on the report shall be held. 2632
~~Upon the fixing of the date~~ 2633

(B) At least twenty-one days prior to the date established 2634
for the hearing, the clerk shall immediately give provide notice 2635
by certified mail, return receipt requested, or by first class 2636
mail in a five day return envelope. For each improvement, all 2637
individual notices shall be sent by the same type of mail. 2638
~~Whichever method the board chooses, the~~ to all owners that are 2639
adjacent to the proposed improvement by certified mail and to 2640
all others in the area to be benefited by the proposed 2641
improvement by certified or first class mail. The clerk shall 2642
ensure that the words "Legal Notice of Proposed Drainage 2643
Improvement" shall be are printed in plain view on the face of 2644
~~the envelope. Notice~~ The clerk shall be sent send the notice to 2645
all the owners whose names appear in the engineer's schedules of 2646
assessments and damages. The notice clerk shall be mailed mail 2647
the notice to each address as given in the petition or to such 2648
address as the clerk learns to be the correct address, as 2649
provided in section 6131.07 of the Revised Code. If the schedule 2650
of assessments or the schedule of damages filed by the engineer 2651
contains the names of owners other than those mentioned in the 2652
petition, notices the clerk shall also be mailed mail the notice 2653
to those owners. The clerk shall include in the notice all of 2654
the following: 2655

(1) An owner's estimated assessment, the estimated 2656
damages, if any, and of any compensation for land or other 2657
property necessary to be taken on each tract of land owned by 2658
the owner, as estimated and described in the schedules; 2659

(2) The date, time, and location of the final hearing by 2660

the board on the report of the engineer and on the proceedings 2661
for the improvement; 2662

(3) A statement that an owner may file an exception to the 2663
assessments or a claim for compensation or damages with the 2664
clerk of the board of county commissioners not less than five 2665
days before the date fixed for the final hearing; 2666

(4) A statement that if bonds or notes are to be issued, 2667
an owner may pay an assessment in cash by giving notice to do so 2668
on a form proscribed by the board of county commissioners not 2669
more than twenty-one days after the final hearing or that an 2670
owner may pay the assessments in installments payable with 2671
interest added at the same rate that bonds or notes bear 2672
interest. 2673

(C) The clerk shall cause to be published a legal notice 2674
in at least one newspaper of general circulation in the area 2675
affected by the improvement, stating the name and number, if 2676
any, of the proposed improvement, the location and nature of the 2677
work proposed in the petition, and the date, time, and location 2678
of the final hearing. The publication of this notice shall be 2679
made in one issue of the newspaper if the individual notices are 2680
sent by certified mail. If the individual notices are sent by 2681
first-class mail in five-day return envelopes, the publication 2682
of this newspaper notice shall be made in two issues of the 2683
newspaper, and the notice shall include a list of the names of 2684
all addressees whose individual notices were undelivered. The 2685
publication shall be not fewer than thirteen days prior to the 2686
date of the final hearing. The publication shall serve as public 2687
notice to all owners of the substance of the proposed 2688
improvement and of the pendency of the final hearing of the 2689
board of county commissioners in the proceedings to authorize 2690

the construction of the proposed improvement whether or not they 2691
were individually named and notified. 2692

~~The mailed legal notice shall notify the owners of the 2693
assessment or the estimated damages, if any, and of compensation 2694
for any land or other property necessary to be taken on each 2695
tract of land owned by the owner, as estimated and described in 2696
the schedules, shall notify the owners of the date of the final 2697
hearing by the board on the report of the engineer and on the 2698
proceedings for the improvement, and shall notify all owners 2699
that all claims for compensation or damages must be filed with 2700
the clerk of the board of county commissioners before that date 2701
fixed for the final hearing. The notice shall further state that 2702
if bonds or notes are to be issued, the owner must give written 2703
notice within twenty one days after the final hearing of his 2704
intention to pay in cash. The clerk shall include with the legal 2705
notice to the owner a form prescribed by the board of county 2706
commissioners that the owner shall use to notify the board of 2707
his intention to pay in cash. If he does not give notice of his 2708
intention to pay in cash within twenty one days, the 2709
installments will be payable with the interest added at the same 2710
rate that the bonds or notes bear interest. 2711~~

Proof of notice by publication shall be verified by 2712
affidavit of the ~~printer or other person knowing that fact,~~ 2713
newspaper and the clerk of the board of county commissioners 2714
shall prepare a certificate showing the service of the notices 2715
by mail, both of which shall be filed with the clerk of the 2716
board of county commissioners on or before the day of the final 2717
hearing. ~~Notices~~ If any notices are returned undelivered, the 2718
clerk shall keep the returned undelivered notices and their 2719
~~receipts shall be kept on file as a permanent record of the~~ 2720
improvement with the permanent file of records required under 2721

section 6131.061 of the Revised Code.

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~~Sec. 6131.17. Any owner may accept the estimated
assessment as described in the engineer's schedules, or may
accept the estimated damages or compensation as described in the
engineer's schedule of damages, or may acquiesce to the
engineer's failure to estimate damages or award compensation in
his favor, and will be construed to have done so unless he files
(A) An owner may file an exception to the county engineer's
schedules of assessments or files file a claim for damages or
compensation, on or before the date of the final hearing in the
proceedings to construct the improvement.~~

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~~All exceptions to the engineer's schedules of assessments
and damages, and all claims for compensation for land or other
property necessary to be taken, and all claims for damages by
reason of a proposed improvement not listed in the engineer's
schedule of damages, shall be filed with the clerk of the board
of county commissioners as provided in section 6131.16 of the
Revised Code on or not less than five days before the date of
the final hearing in the proceedings to construct the
improvement.~~

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~~All exceptions to the engineer's schedules and all claims
(B) An owner shall include with an exception or claim for
compensation or damage shall describe the land, a part of which
is the nature of the exception or claim, the amount claimed, if
any, and the identity of the property claimed to be taken or
damaged, and shall describe the nature of and the reasons for
the claim asked to be paid to each claimant.~~

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~~Sec. 6131.19. (A) At the final hearing, or at such time to
which said the final hearing is adjourned to hear claims for
compensation or damages, the board of county commissioners shall~~

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hear any competent evidence offered by any ~~of the interested~~ 2752
~~owners affected owner~~ upon the county engineer's estimate of 2753
damages and upon any claim filed for compensation or damages. 2754

(B) Upon consideration of all the evidence, including the 2755
county engineer's schedule of estimated damages, and a view of 2756
~~the premises affected property,~~ if ~~it the board~~ desires ~~such a~~ 2757
view, the board shall ~~find and~~ determine the amount of damages 2758
~~to which any owner is entitled for each claim filed by an owner,~~ 2759
and shall also determine the ~~fair~~ value of any land or any other 2760
property to be taken for ~~said the proposed~~ improvement. ~~The~~ 2761

(C) If the board of county commissioners awards additional 2762
compensation to any owner, the board shall enter its findings in 2763
its journal, and shall authorize the county auditor to issue his 2764
warrants upon the county treasurer of the county in which the 2765
land is located, payable from the general drainage improvement 2766
fund, to such claimants for such amounts, which amounts so 2767
determined shall be paid before any work on the proposed 2768
improvement is done order the county engineer to prepare new 2769
assessments for the proposed improvement and the clerk of the 2770
board shall notify all owners of the new assessments pursuant to 2771
section 6131.16 of the Revised Code. 2772

(D) An owner may appeal ~~may be taken by any claimant from~~ 2773
~~the an order of the board refusing the allowance of county~~ 2774
commissioners concerning a claim for compensation or damages, 2775
~~and an appeal may be taken by any claimant from an order~~ 2776
~~allowing compensation or damages if, in his opinion, the amount~~ 2777
~~awarded is less than the actual damages sustained, or less than~~ 2778
~~the fair value of the land or other property necessary to be~~ 2779
~~taken. Such appeal shall be taken and perfected as provided in~~ 2780
sections 6131.01 to 6131.64, inclusive, of the Revised Code this 2781

chapter.

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Sec. 6131.21. (A) At the final hearing on a proposed
improvement, after hearing all the evidence offered in the
proceedings and after receiving and considering all the
schedules, plans, and reports filed by the county engineer, the
board of county commissioners shall review ~~and reconsider the~~
~~its~~ former order ~~made by it finding in favor of the~~ to proceed
with project survey and design for the proposed improvement and
shall either affirm its former order and proceed to confirm the
assessments and order the letting of the contract or shall set
aside its former order and dismiss the petition. ~~At the final~~
~~hearing, if the board finds that the cost of the improvement~~
~~will be equal to or greater than the benefits that will be~~
~~derived therefrom if constructed, or if the board finds that the~~
~~improvement is not necessary, or if it finds that the~~
~~improvement will not be conducive to the public welfare, the~~
~~board shall set aside the former order finding in favor of the~~
~~improvement made by it at the first hearing and shall dismiss~~
~~the petition.~~

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(B) In determining whether or not the improvement should
be granted, the board shall consider the following factors:

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~~(A)~~ (1) The cost of location and construction;

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~~(B)~~ (2) The compensation for land or other property
necessary to be taken;

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~~(C)~~ (3) The effect on land along or in the vicinity of the
route of the improvement;

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~~(D)~~ (4) The effect on land below the lower terminus of the
improvement that may be caused by constructing the improvement;

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~~(E)~~ (5) The sufficiency or insufficiency of the outlet;

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~~(F)~~ (6) The benefits to the public welfare; 2811

~~(G)~~ (7) The benefits to land, public corporations, and the 2812
state needing the improvement; 2813

~~(H)~~ (8) Any other proper matter that will assist ~~it~~ the 2814
board in finding for or against the improvement. 2815

(C) The board shall set aside the former order and dismiss 2816
the petition if the board finds any of the following: 2817

(1) That the cost of the improvement will be equal to or 2818
greater than the benefits that will be derived from the 2819
improvement if constructed; 2820

(2) That the improvement is not necessary; 2821

(3) That the improvement will not be conducive to the 2822
public welfare. 2823

(D) If the ~~petition is dismissed~~ board dismisses the 2824
petition for a proposed improvement at the final hearing, all 2825
costs for the proceedings, including the costs incurred by the 2826
engineer in making surveys, plans, reports, and schedules, may 2827
be distributed to the benefiting landowners in the same ratio as 2828
determined by the engineer in the final estimated assessments 2829
presented at the final hearing. ~~The board shall confirm or alter~~ 2830
~~the assessments as provided for in section 6131.22 of the~~ 2831
~~Revised Code. The approved assessments shall then be certified~~ 2832
~~to the county auditor to be administered pursuant to section~~ 2833
~~6131.49 of the Revised Code.~~ 2834

If the costs are not distributed to the benefiting 2835
landowners, ~~they shall~~ the costs must be paid from county funds. 2836

(E) The petitioner, or any owner in favor of the 2837
improvement, may appeal from the order of dismissal, as provided 2838

in section 6131.25 of the Revised Code. 2839

(F) An order issued by the board under this section is 2840
effective on the day of the hearing at which the board issued 2841
it. 2842

Sec. 6131.22. (A) At the final hearing on a proposed 2843
improvement, if the petition is not dismissed, the board of 2844
county commissioners shall hear any evidence offered for or 2845
against the assessment proposed to be levied against any owner 2846
or on any land as shown by the schedule of assessments filed by 2847
the county engineer and shall hear any competent evidence on the 2848
question of benefits. 2849

(B) (1) The board, from the evidence offered and from an 2850
actual view of the premises, shall amend and correct the 2851
assessments, and the assessments so amended or corrected shall 2852
be approved by the board. ~~That part of the assessment that is-~~ 2853
~~assessed-~~ 2854

(2) An assessment for benefits to the general public 2855
because the improvement is conducive to the public welfare shall 2856
be paid by the public and shall be assessed against the county 2857
payable from the general fund. ~~Such part of the-~~ 2858

(3) An assessment ~~as is~~ found to benefit state roads or 2859
highways shall be assessed against the state payable from motor 2860
vehicle revenues. ~~Such part of the-~~ 2861

(4) An assessment ~~as is~~ found to benefit county roads or 2862
highways shall be assessed against the county payable from motor 2863
vehicle revenues. ~~Such part of the-~~ 2864

(5) An assessment ~~as is~~ found to benefit any ~~public-~~ 2865
~~corporation or~~ political subdivision of the state shall be 2866
assessed against the ~~public corporation or~~ political subdivision 2867

and shall be paid out of the general funds or motor vehicle 2868
revenues of the ~~public corporation or political subdivision of~~ 2869
~~the state~~, except as otherwise provided by law. ~~The board shall~~ 2870
~~approve and confirm~~ 2871

(C) Upon approving the assessments, the board shall order 2872
do all of the following: 2873

(1) Order the engineer to receive bids for the 2874
construction of the proposed improvement, and ~~shall fix~~ the 2875
date, time, and place for the receiving of bids, which shall be 2876
not less than ~~twenty-five~~ thirty days after the date of the 2877
order. ~~The board shall determine;~~ 2878

(2) Determine when the assessments ~~shall must~~ be paid and 2879
~~shall determine;~~ 2880

(3) Determine whether bonds or notes ~~shall must~~ be issued 2881
in anticipation of and payable out of the installments of 2882
assessments. 2883

(D) The board's board shall enter the orders approving the 2884
~~assessments and ordering, the order requiring~~ the engineer to 2885
receive bids, and any other orders made at ~~this the final~~ 2886
~~hearing, shall be entered on in~~ its journal. The clerk of the 2887
board of county commissioners shall immediately transmit to the 2888
county auditor the schedules listing all assessments as approved 2889
by the board. 2890

(E) Any owner opposed to the granting of the petition, or 2891
any owner opposed to further proceedings in the improvement, or 2892
any owner who claims that the assessment levied against ~~him the~~ 2893
owner is excessive or is not in proportion to benefits, may 2894
appeal from any order made pursuant to this section, as provided 2895
in section 6131.25 of the Revised Code. 2896

(F) An order issued by the board under this section is 2897
effective on the day of the hearing at which the board issued 2898
it. 2899

Sec. 6131.23. (A) The assessments estimated in accordance 2900
with section 6131.14 of the Revised Code shall be payable in not 2901
less than two semiannual installments. At the time of the final 2902
hearing, in the order approving the levying of the assessments, 2903
the board of county commissioners shall determine how long a 2904
period of time, in semiannual installments, as taxes are paid, 2905
shall be given the owners of land benefited to pay the 2906
assessments that are made for an improvement and whether or not 2907
bonds or notes shall be issued and sold in anticipation of such 2908
payments. If bonds or notes are to be issued, the interest shall 2909
be added to the assessments. 2910

(B) If the estimated cost of the improvement does not 2911
exceed five hundred dollars, not more than two semiannual 2912
installments, as taxes are paid, shall be given to owners of 2913
lands benefited to pay the assessments that are made for the 2914
improvement. If the estimated cost of the improvement exceeds 2915
five hundred dollars, the board may determine the number of 2916
installments in which the assessments are to be paid. If any 2917
such assessment is twenty-five dollars or less, or whenever the 2918
unpaid balance of any such assessment is twenty-five dollars or 2919
less, the same shall be paid in full, and not in installments, 2920
at the time the first or next installment would otherwise become 2921
due. 2922

(C) When assessments are payable in installments and 2923
county general funds are used to pay for the improvement, the 2924
assessment shall not exceed thirty semiannual installments, ~~as~~ 2925
~~computed by the county auditor pursuant to section 6131.49 of~~ 2926

~~the Revised Code,~~ and shall be payable upon completion of the 2927
contract. 2928

(D) When assessments are made payable in installments and 2929
bonds or notes have been sold to pay for the improvement, 2930
interest shall be added to the installments of assessments at 2931
the same rate as is drawn by the bonds or notes issued to pay 2932
for the improvements. Any owner may pay the estimated 2933
assessments on the owner's land in cash within thirty days after 2934
the final hearing without paying any interest thereon. If the 2935
legislative authority of a political subdivision chooses to pay 2936
the assessments on all parcels within the subdivision, both 2937
public and private, in one installment, it shall pass a 2938
resolution so stating and shall send the resolution, or a copy 2939
thereof, to the board of county commissioners before making the 2940
payment. The legislative authority shall pay all subsequent 2941
maintenance assessments levied under section 6137.03 of the 2942
Revised Code if it chooses to pay the construction assessments 2943
on all parcels within the subdivision. 2944

(E) Bonds may be sold for any repayment period that the 2945
board of county commissioners may determine proper, not to 2946
exceed thirty semiannual installments, ~~except that for bonds~~ 2947
~~sold by a board of county commissioners for soil and water~~ 2948
~~conservation district improvements pursuant to section 940.33 of~~ 2949
~~the Revised Code, the repayment period shall not exceed thirty~~ 2950
~~semiannual installments.~~ 2951

Sec. 6131.24. (A) The board of county commissioners shall 2952
fix a date, time, and place at the final hearing for the county 2953
engineer to receive bids. The county engineer shall prepare the 2954
necessary bid documents and legal advertisements as provided in 2955
sections 307.87 and 307.88 of the Revised Code. 2956

(B) If an appeal has been taken to the court of common
pleas, as provided in section 6131.25 of the Revised Code, the
bids may be received and tabulated, but the bid guaranties with
the bids shall immediately be returned to the bidders, and no
further steps shall be taken on the bids.

Sec. 6131.25. (A) Any affected owner may appeal to the
court of common pleas within ~~twenty-one~~ thirty days of the date
that any order was issued by the board of county commissioners,
~~as provided in sections 6131.01 to 6131.64 of the Revised Code~~
under this chapter, and may appeal any one or more of the
following questions:

~~(A)~~ (1) Is the improvement necessary?

~~(B)~~ (2) Will the improvement be conducive to the public
welfare?

~~(C)~~ (3) Is the cost of the improvement greater than the
benefits conferred?

~~(D)~~ (4) Is the route, termini, or mode of construction the
best to accomplish the purpose of the improvement?

~~(E)~~ (5) Are the assessments levied according to benefits?

~~(F)~~ (6) Is the award for compensation or damages just?

(B) The appeal may be taken from any order affecting any
part of the improvement as well as from any order affecting the
entire improvement.

Sec. 6131.27. If an appeal is ~~perfected by filing the bond~~
~~and statement provided in filed pursuant to section 6131.26~~
6131.25 of the Revised Code, the clerk of the board of county
commissioners shall promptly prepare a transcript of the orders
made by the board of county commissioners, and shall file such

transcript with the clerk of the court of common pleas, together 2985
~~with all the original papers in said proceedings. The clerk of-~~ 2986
~~the court of common pleas shall file such transcript and papers-~~ 2987
~~in the court of common pleas~~ the permanent files of records of 2988
the proceedings maintained by the board of county commissioners 2989
and county engineer as required under section 6131.061 of the 2990
Revised Code. ~~The proceedings on appeal in the court of common-~~ 2991
~~pleas shall be styled, "In the matter of the appeal in county-~~ 2992
~~ditch or improvement No....., petitioned for-~~ 2993
~~by"~~ 2994

Sec. 6131.28. Several owners may appeal from the orders in 2995
the same improvement ~~and file separate bonds and separate-~~ 2996
~~statements stating the matters appealed.~~ If several owners 2997
appeal, only one transcript need be made by the clerk of the 2998
board of county commissioners. All the appeals shall be filed in 2999
one action in the court of common pleas, which court, on any 3000
appeal, may separate for hearing or trial the issues appealed to 3001
said court, and render its order, judgment, or decree upon the 3002
issues as the same are determined. The case on appeal shall be 3003
advanced, or tried as soon as the court can hear it. 3004

Sec. 6131.30. (A) The court of common pleas, on appeal, 3005
shall hear the matters appealed de novo. ~~The proceedings shall-~~ 3006
~~be conducted under the rules of law and procedure for civil-~~ 3007
~~cases. An appeal shall bring into the court all the owners who-~~ 3008
~~in any way may be interested in or affected by the matter-~~ 3009
~~appealed. The court, exercising equitable jurisdiction, shall-~~ 3010
~~hear all matters appealed, except an appeal from an order-~~ 3011
~~allowing or refusing to allow compensation or damages. The court-~~ 3012
~~may view the premises the same as views in other civil cases and-~~ 3013
~~shall make such judgment, order, or decree as is warranted by-~~ 3014
~~the evidence. Any owner aggrieved by the judgment, order, or-~~ 3015

~~decree may appeal for a review of the proceedings, the same as~~ 3016
~~in other civil cases. On appeal, the burden of proof shall be on~~ 3017
~~the owner having the affirmative of the proposition, who shall~~ 3018
~~have the opening and closing.~~ The court, exercising equitable 3019
jurisdiction, shall bring the entire proceedings before it in 3020
order to determine all the issues raised in the proceedings and 3021
enter a final judgment, order, or decree for or against the 3022
improvement petitioned for and for or against the assessments to 3023
be levied and the compensation and damages to be paid. 3024

(B) If the court orders the county engineer to make a 3025
survey and file ~~his~~ the engineer's reports, plans, and 3026
schedules, the court also shall enter an order for transfer from 3027
the general revenue funds of the county to the general drainage 3028
improvement fund a sum of not more than twenty-five per cent of 3029
the engineer's preliminary estimate. 3030

~~The court of common pleas may appoint a board of~~ 3031
~~arbitrators to assume the duties of the judge. The board shall~~ 3032
~~be comprised of three disinterested persons chosen by the judge,~~ 3033
~~who shall designate one of the persons to be chairman. A~~ 3034
~~decision of the board shall require approval of a majority of~~ 3035
~~the members. Either party may appeal the board's decision to the~~ 3036
~~court of common pleas, which shall decide the case on the record~~ 3037
~~of arbitration.~~ 3038

Sec. 6131.32. On appeal from an order made by the board of 3039
county commissioners allowing or refusing to allow compensation 3040
or damages, the owners interested shall have the right of trial 3041
by jury. ~~The issues shall be made by the application or claim~~ 3042
~~filed with the clerk of the board of county commissioners for~~ 3043
~~compensation or damages, and the statements in such applications~~ 3044
~~shall be deemed denied. The claimant for compensation or damages~~ 3045

shall have the affirmative and shall have the opening and 3046
closing of the trial. The case shall proceed pursuant to the law 3047
and the rules governing civil procedure, with the same rights 3048
for motions for new trial and the right of appeal as in other 3049
civil cases. The jury may view the premises, as in other civil 3050
cases. Just compensation or damages shall be awarded, as 3051
provided in the Ohio constitution. 3052

Sec. 6131.33. The jury authorized by section 6131.32 of 3053
the Revised Code, upon submission of the case to it under proper 3054
charge of the court of common pleas, and upon a form of verdict 3055
provided by the court, shall return its verdict determining the 3056
matter in issue, upon which verdict a judgment shall be entered 3057
by the court as in other civil cases. The verdict shall be 3058
signed by the jury. Nine or more of the jurors must concur in a 3059
verdict. If there is more than one appellant in a trial by jury 3060
authorized under section 6131.32 of the Revised Code with 3061
separate claims on the question of allowance or compensation or 3062
damages, or the refusal to allow compensation or damages, or if 3063
there are issues as to different properties, the court may 3064
submit all the several claims and issues to the same jury, with 3065
appropriate verdicts as to each claim, or it. The court also 3066
may direct separate trials for the separate claims and issues, 3067
or any one or more of them. In said proceedings the . The court 3068
shall instruct the jury shall be instructed that in its verdict 3069
for compensation for land taken or for damages to any land by an 3070
improvement it shall not consider or deduct the value of any 3071
benefits that such land will receive from the construction of 3072
such improvement. 3073

Sec. 6131.34. The court of common pleas shall receive the 3074
verdict referred to in section 6131.33 of the Revised Code, and 3075
if no motion for new trial thereof is filed within three days, 3076

~~which motion may be filed as in other civil cases and for like~~ 3077
~~causes, or if such motion for a new trial is overruled, it shall~~ 3078
~~render judgment according to said verdict, and for or against~~ 3079
~~the owners, separately, if there is more than one. The court~~ 3080
~~shall tax the costs of appeal, including jury fees, in favor of~~ 3081
~~the prevailing party, and where two or more appeals are tried~~ 3082
~~together the court shall divide the costs as is equitable. If~~ 3083
the appellants, on claims for compensation or damages, do not 3084
recover a judgment for more than the amount of compensation or 3085
damages awarded by the board of county commissioners, the costs 3086
on the hearing as to compensation or damages on appeal shall be 3087
taxed against the appellants. If the amount recovered is greater 3088
than the amount awarded by the board, the costs shall be taxed 3089
against the county. 3090

The prosecuting attorney shall represent the county in all 3091
appeals on questions of compensation or damages. On appeals of 3092
other matters which are tried to the court sitting as a court of 3093
equity, the court shall adjudge the costs as it deems just and 3094
equitable except as otherwise provided in section 6131.01 to 3095
6131.64, inclusive, of the Revised Code. 3096

Sec. 6131.36. (A) After the final judgment, order, or 3097
decree upon any appeal is rendered by the court of common pleas, 3098
the clerk of the court of common pleas shall, within twenty-one 3099
days, make a transcript of the same and shall certify and 3100
transmit it with all original papers in the case to the clerk of 3101
the board of county commissioners, who shall forthwith enter the 3102
judgment, order, or decree upon the journal of the board. If the 3103
judgment, order, or decree is in favor of the granting of the 3104
improvement, the board shall proceed with the improvement 3105
proceedings in compliance with the final judgment, order, or 3106
decree from the point at which they were terminated by the 3107

appeal or from the point at which the court orders the board to 3108
proceed. 3109

(B) Upon the expiration of the twenty-one day appeal 3110
period provided in section 6131.25 of the Revised Code, the 3111
clerk of the board of county commissioners shall transmit the 3112
schedules of assessments and damages to the county auditor. The 3113
board of county commissioners and the county engineer shall 3114
proceed with letting contracts and constructing the improvement, 3115
and the county auditor shall proceed to levy and collect 3116
assessments and to pay compensation and damages as if no appeal 3117
had been taken. If an appeal is ~~perfected to the court of~~ 3118
~~appeals and a supersedeas bond is given~~ filed pursuant to 3119
section 6131.25 of the Revised Code, the board and the engineer 3120
shall stay their proceedings until the final determination of 3121
the proceedings in the court of appeals or in the supreme court. 3122

Sec. 6131.42. ~~Any owner who has suffered any loss or~~ 3123
~~damage by reason of the failure of the contractor to perform his~~ 3124
~~contract, or by his negligence in performing the contract, may~~ 3125
~~bring suit against the contractor and his bondsmen to recover~~ 3126
~~the damages so sustained. Two or more owners who are assessed~~ 3127
~~for the construction of the improvement may in one suit bring an~~ 3128
~~action against the contractor and his bondsmen to recover the~~ 3129
~~damages which may be sustained by all the plaintiffs by reason~~ 3130
~~of the failure of the contractor to construct the improvement~~ 3131
~~according to the contract.~~ 3132

~~When two or more owners join in one suit in an action for~~ 3133
~~damage against the contractor, the jury in one verdict shall~~ 3134
~~find the damages suffered by all the plaintiffs. The court shall~~ 3135
~~enter judgment on the verdict in favor of the plaintiffs for the~~ 3136
~~amount of damages, as found by the jury, and shall at the time~~ 3137

~~of entering the judgment find what part of said judgment should~~ 3138
~~be paid to each of the plaintiffs respectively, and shall order~~ 3139
~~the clerk to the court to pay to each of said plaintiffs the~~ 3140
~~part of said judgment as found by the court when said judgment~~ 3141
~~is paid.~~ Any owner who is assessed for the construction of any 3142
improvement may bring an action to enjoin the payment of any 3143
money owed a contractor who has not constructed the work 3144
according to the contract and specifications until the 3145
contractor has constructed the improvement according to the 3146
contract and specifications. The remedies provided in this 3147
section are in addition to all other remedies provided by law. 3148

Sec. 6131.43. (A) Upon the completion of the work and the 3149
approval of it by the county engineer, the board of county 3150
commissioners shall order the county auditor to reduce pro rata 3151
the assessments confirmed by it by the difference between the 3152
estimated cost of the construction and the final cost as 3153
certified by the county engineer. The assessments so reduced, 3154
including the cost of location, engineering, compensation, 3155
damages, and contingency and the assessment for maintenance for 3156
one year, shall be levied upon each parcel of land, each public 3157
corporation, and each department, office, or institution of the 3158
state as stated in the schedules as of the date of the order of 3159
the board approving the contracts and ordering the levying of 3160
the assessments. 3161

(B) The auditor shall notify the owners of all assessed 3162
lands of the amount of the actual assessment, which shall be not 3163
less than ten dollars, and of the payment plan for the 3164
collection of the assessments. The auditor shall immediately 3165
place the assessments so levied upon the duplicates of the 3166
county, and the assessments shall be a lien upon the several 3167
parcels of land respectively from and after the date of the 3168

order of the board approving and levying the assessments. The 3169
auditor shall be liable on ~~his~~ the auditor's bond for any 3170
damages sustained by any person by reason of the auditor's 3171
failure to place promptly the assessments upon the proper 3172
duplicates of the county. 3173

(C) The county auditor shall transmit to the governing 3174
body of any ~~public corporation political subdivision~~ affected by 3175
an improvement the assessments levied against it. The governing 3176
body shall authorize payment to be made to the county treasurer 3177
of the county in which the improvement is located from the 3178
general fund of the ~~public corporation political subdivision~~, 3179
except as otherwise provided by law. 3180

(D) The county auditor shall also transmit to the director 3181
of any department, office, or institution of the state, affected 3182
by an improvement the assessments levied against any department, 3183
office, or institution of the state. Payment shall be made to 3184
the county treasurer of the county in which the improvement is 3185
located from the drainage assessment fund in the manner provided 3186
by section 6133.15 of the Revised Code. In presenting their 3187
proposed expenses to the director of budget and management 3188
pursuant to section 126.02 of the Revised Code, the directors of 3189
all departments, offices, or institutions of the state shall 3190
list all unpaid assessments received before the first day of 3191
October of the year preceding the first regular session of the 3192
general assembly for the state's proportionate share of the cost 3193
of any improvement authorized or constructed under ~~sections~~ 3194
~~6131.01 to 6131.64, 6133.10 to 6133.15, and 6135.01 to 6135.27~~ 3195
this chapter and Chapters 6133. and 6135. of the Revised Code 3196
and all unpaid assessments for maintenance as provided by 3197
~~sections 6137.01 to 6137.14 Chapter 6137.~~ of the Revised Code. 3198
The assessments so listed shall be included in the state budget 3199

estimates of revenues and expenditures for each state fund and 3200
budget estimates for each state agency prepared and submitted to 3201
the governor under section 126.02 of the Revised Code. 3202

Sec. 6131.47. ~~During the execution of the work on an~~ 3203
~~improvement, the county engineer shall cause notice to be given~~ 3204
~~to the owner within seven days in advance of removal or~~ 3205
~~alteration of a culvert, bridge, fence, or floodgate, where the~~ 3206
~~removal or alteration is necessary to the progress of the work~~ 3207
~~of the improvement, to remove or make such alteration as the~~ 3208
~~engineer finds necessary.~~ 3209

~~During the formulation of the plans, the~~ (A) The county 3210
engineer shall evaluate all culverts and bridges, except those 3211
on state and federal highways, for adequacy of capacity, 3212
vertical and horizontal alignment, and stability. ~~Any~~ The county 3213
engineer shall schedule any bridge or culvert found not 3214
~~conforming that does not conform~~ with the design of the drainage 3215
improvement ~~shall be scheduled~~ for removal and replacement or 3216
repair as the engineer considers necessary. 3217

(B) ~~If, in the judgment of the county engineer,~~ determines 3218
that the culverts and bridges were adequate in capacity or 3219
vertical and horizontal alignment at the time of their 3220
installation, the removal and replacement ~~with a comparable,~~ 3221
~~adequate culvert or bridge~~ shall be made at the expense of the 3222
project less any costs, which shall be apportioned by the 3223
engineer, for correction, maintenance, or replacement of the 3224
culvert or bridge in whole or in part due to deterioration or 3225
instability had the structure been left in place. The latter 3226
costs shall be specially assessed to the owner. 3227

~~Any~~ (C) The county engineer shall schedule in the project 3228
plans any culvert or bridge, except those on state and federal 3229

highways, that is washed out in whole or part, but that 3230
otherwise ~~meeting-meets~~ the requirements of the drainage 3231
improvement, ~~shall be scheduled in the project plans for~~ such 3232
repairs, additions, or other corrective measures ~~as in the~~ 3233
~~opinion of the engineer are necessary to the preservation of~~ 3234
preserve the bridge or culvert, ~~the~~. The costs of which shall 3235
be assessed to the appropriate owner ~~for reasons that the~~ 3236
~~culvert or bridge was improperly designed and constructed.~~ 3237

(D) Fences and floodgates impeding the flow of water shall 3238
be removed as a part of the drainage improvement. Replacement 3239
may be made by the owner, provided that prior written approval 3240
is obtained from the county engineer. 3241

(E) The county engineer shall cause notice to be given to 3242
the owner not later than seven days in advance of removal or 3243
alteration of a culvert, bridge, fence, or floodgate. 3244

(F) Any owner may furnish the work and material in lieu of 3245
a special assessment, provided ~~he makes~~ the owner does all of 3246
the following: 3247

(1) Makes written application to the county engineer 3248
within ten ~~calendar~~ days after the final hearing, ~~furnishes;~~ 3249

(2) Furnishes the work and materials in accordance with 3250
the specifications for the improvement, ~~performs same;~~ 3251

(3) Performs the work so as not to delay the project 3252
contractor, ~~and completes;~~ 3253

(4) Completes the work prior to the completion of the work 3254
on the whole improvement. 3255

~~Should~~ (G) If the owner default-defaults on any or all of 3256
these conditions, the county engineer shall recommend to the 3257

board of county commissioners that the default be completed by 3258
an extra work order to the project contractor and its cost 3259
assessed to the owner. 3260

Sec. 6131.50. (A) The board of county commissioners of 3261
each county ~~shall~~ may provide and establish the "general 3262
drainage improvement fund," ~~which fund shall to~~ be used as a 3263
sinking fund for all bonds issued under sections 6131.01 to 3264
6131.64, inclusive, of the Revised Code. ~~Said-~~ 3265

(B) The fund ~~shall~~ may consist of any of the following: 3266

~~(A)~~ (1) Any taxes levied and collected for ditch and 3267
drainage purposes under county levies, not by law otherwise 3268
disposed of; 3269

~~(B)~~ (2) The proceeds of all bonds issued and sold under 3270
sections 6131.01 to 6131.64, inclusive, of the Revised Code; 3271

~~(C)~~ (3) The collections from all special assessments for 3272
benefits to property, as provided in such sections; 3273

~~(D)~~ (4) Such other funds as by law are provided to be paid 3274
therein. 3275

Sec. 6131.51. (A) All costs and expenses of improvements 3276
under ~~sections 6131.01 to 6131.64 of the Revised Code~~ this 3277
chapter, including contract prices of construction and the costs 3278
of locating the improvement, ~~shall~~ may be paid from the general 3279
drainage improvement fund. ~~No warrants shall be drawn to be paid~~ 3280
~~from the fund unless it contains a sufficient amount not~~ 3281
~~otherwise specifically appropriated to pay them.~~ 3282

(B) The letting and approving of any contract for an 3283
improvement shall be considered a specific appropriation of the 3284
amount of the obligation, and that amount shall be set apart for 3285

the purpose of the payment and contingently charged against the 3286
fund. If at any time the fund contains the proceeds of bonds or 3287
notes issued and sold under such sections, the fund shall not be 3288
depleted below the obligations incurred by the bond or note 3289
issue unless assessments or levies have been made or ordered 3290
made in sufficient amount to redeem the bonds or notes as they 3291
fall due. If at any time obligations legally incurred exceed the 3292
amount of the drainage improvement fund, an amount of the 3293
general revenue funds in the county treasury equal to the 3294
deficiency, unless otherwise appropriated, may by resolution of 3295
the board of county commissioners be transferred to the general 3296
drainage improvement fund. 3297

(C) At any time after assessments collected for a drainage 3298
improvement exceed the amount allocated to the board for 3299
engineering expenses, the board of county commissioners may by 3300
resolution transfer from the drainage improvement fund to the 3301
general revenue fund of the county an amount equal to that 3302
amount as reimbursement of the sum previously transferred under 3303
section 6131.12 or 6131.30 of the Revised Code. 3304

Sec. 6131.52. ~~The~~ (A) If necessary, the board of county 3305
commissioners, ~~at its each March session, annually,~~ shall, ~~if~~ 3306
~~necessary,~~ levy upon the grand duplicate of the county a tax, 3307
not to exceed five-tenths of one mill on the dollar, that is 3308
sufficient to pay for the location and construction of the 3309
portions of the respective improvements located by ~~it~~ the board 3310
or for which the county has been assessed under ~~sections 6131.01~~ 3311
~~to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, or 6137.01~~ 3312
~~to 6137.14~~ this chapter or Chapter 6133., 6135., or 6137. of the 3313
Revised Code, ~~which tax, when~~ . When collected, the tax shall be 3314
credited to the general drainage improvement fund. 3315

(B) For the purposes of ~~sections 6131.01 to 6131.64,~~ 3316
~~6133.01 to 6133.13, 6135.01 to 6135.25, and 6137.01 to 6137.14~~ 3317
this chapter and Chapters 6133., 6135., and 6137. of the Revised 3318
Code, the board of county commissioners may levy a tax under 3319
division (X) of section 5705.19 of the Revised Code upon all of 3320
the property listed and assessed for taxation in the county. In 3321
addition to the actions required under section 5705.19 of the 3322
Revised Code, the board shall cause to be filed with the county 3323
auditor and the board of elections of the county, at least sixty 3324
days prior to the passage of the resolution required under that 3325
section, an accurate map showing the locations and types of any 3326
proposed improvements, the areas to be benefited, and the 3327
existing system of drainage improvements that is to be 3328
maintained from the proceeds of the levy. 3329

Any funds collected as a result of such a levy ~~shall~~may 3330
be credited to the general drainage improvement fund of the 3331
county in which the tax is levied. 3332

(C) For the purposes of ~~sections 6131.01 to 6131.64,~~ 3333
~~6133.01 to 6133.13, 6135.01 to 6135.25, and 6137.01 to 6137.14~~ 3334
this chapter and Chapters 6133., 6135., and 6137. of the Revised 3335
Code, the board of county commissioners may adopt a resolution 3336
designating any portion of the county as a drainage improvement 3337
district. If a copy of the resolution and a map or legal 3338
description of the district's boundaries have been filed with 3339
the county auditor in such form as the county auditor 3340
prescribes, the board may levy a tax within the district under 3341
division (X) of section 5705.19 of the Revised Code. The board 3342
shall base its designation on the location of a system of 3343
drainage improvements and on the areas to be benefited by that 3344
system. The proceeds of the levy shall only be used for the 3345
construction and maintenance of the system of drainage 3346

improvements within the drainage improvement district. 3347

For the purposes of this section, the board of county 3348
commissioners is constituted the "taxing authority" and the 3349
county auditor is the "fiscal officer," within the purview of 3350
Chapter 5705. of the Revised Code. 3351

Sec. 6131.55. (A) Any owner of land affected by an 3352
improvement who has not received notice thereof and has not had 3353
an opportunity to be heard as provided in ~~sections 6131.01 to~~ 3354
~~6131.64, 6133.01 to 6133.11, or 6135.01 to 6135.27~~ this chapter 3355
or Chapter 6133., 6135., or 6137. of the Revised Code may bring 3356
an action in the court of common pleas of the county wherein ~~his~~ 3357
the owner's land is located, against the board of county 3358
commissioners in its official capacity, to recover any tax or 3359
assessment ~~therefor, if paid,~~ to enjoin any tax, assessment, or 3360
levy ~~therefor upon his~~ the owner's lands, to recover for any 3361
damages sustained, or for compensation for any property taken. 3362
~~The owner's rights and remedies in the action shall be the same~~ 3363
~~as for any like demand. In the action the~~ 3364

(B) The board may plead and prove the value of any actual 3365
benefit to the land by reason of the improvement ~~in litigation.~~ 3366

(C) The rights granted by this section shall be in 3367
addition to all other rights provided by law. 3368

Sec. 6131.60. If one or more members of a board of county 3369
commissioners are petitioners for an improvement or own land 3370
that will be taken, benefited, or damaged by the improvement 3371
petitioned for, the clerk of the board of county commissioners 3372
shall notify the judge of the court of common pleas of the 3373
county who shall within ten days appoint as many disinterested 3374
~~freeholders~~ owners of the county as are necessary to take the 3375

place of the interested members. ~~The appointees shall not be~~ 3376
~~related by blood or affinity to the interested members. They~~ 3377
~~shall before acting be sworn to perform faithfully and~~ 3378
~~impartially the duties of the members in the matter of the~~ 3379
~~improvement, which oath shall be signed by them and by the~~ 3380
~~officer before whom the same is taken and filed with the clerk.~~ 3381
~~Upon appointment and qualification the appointee~~ The appointees 3382
~~shall, in the proceedings upon the improvement, perform all the~~ 3383
~~duties of the disqualified members and shall~~ may receive from 3384
the general drainage improvement fund the same per diem rate as 3385
the disqualified ~~member receives, as shown by the record for~~ 3386
~~such services, and the amount so paid shall be costs taxed in~~ 3387
~~the proceedings~~ members receive. 3388

Sec. 6131.63. ~~Except when an owner whose land is used for~~ 3389
~~agricultural purposes desires to install tile by extending or~~ 3390
~~adding to his own laterals or desires to expel water therefrom~~ 3391
~~into an open ditch on his own land in the same watershed, when~~ 3392
(A) When one or more owners desire to join in the construction 3393
~~of an improvement that will benefit the land of the owners, and~~ 3394
~~when the owners are willing to construct the~~ and pay the costs 3395
of a drainage improvement and pay the cost thereof that will 3396
benefit the land of the owners, they may enter into a written 3397
agreement for the construction of the improvement, ~~or they may~~ 3398
~~enter into an agreement to construct such~~ which may include each 3399
owner constructing part of the improvement as a person mutually 3400
~~agreed upon apportions to each of them respectively. In the~~ 3401
~~agreement the owners shall provide that~~ 3402

(B) The owners shall file the agreement and the plan and 3403
schedules for construction of the proposed improvement ~~shall be~~ 3404
~~filed with the clerk of the board of county commissioners of the~~ 3405
county in which the improvement is to be constructed. ~~When the~~ 3406

~~agreement and schedules are so signed, the plan is approved by a~~ 3407
~~professional engineer registered in this state, and the~~ 3408
~~agreement, schedules, and plan are filed with the clerk of the~~ 3409
~~board of county commissioners, the~~ The clerk shall ~~immediately~~ 3410
~~refer submit~~ the agreement, plan, and schedules to the county 3411
engineer for examination and review. 3412

(C) The county engineer shall determine the adequacy of 3413
the plan and schedules and the effect of the proposed 3414
improvement on any other improvements and ~~on any~~ highways in the 3415
area affected. 3416

(D) The county engineer shall also prepare a schedule of 3417
proposed assessments for the maintenance of the improvement 3418
according to an estimate of benefits accruing to each owner and 3419
an estimate of maintenance costs including the engineer's costs 3420
in preparing the schedules. ~~The board shall pay the engineer's~~ 3421
~~costs out of the county general fund.~~ 3422

(E) The engineer shall file with the clerk of the board of 3423
county commissioners, within sixty days, a report of ~~his~~ the 3424
engineer's review together with such recommendations for change, 3425
amendment, or alteration of the agreement, plan, and schedules 3426
~~as he may determine to be necessary in the public interest.~~ 3427

(F) When the agreement, plan, and schedules, as presented 3428
or as amended by the owners pursuant to the county engineer's 3429
recommendations, are approved by the county engineer, the 3430
engineer shall file, within sixty days, a certificate of 3431
approval with the clerk of the board of county commissioners. 3432
Failure to file a certificate of approval within sixty days 3433
constitutes a presumption of certification and the owners may 3434
proceed to construct. 3435

~~Upon the filing with the clerk of the board of county~~ 3436
~~commissioners of the schedule of maintenance assessments~~ 3437
~~prepared by the county engineer as provided by this section,~~ 3438
~~together with his certificate of approval, the~~ 3439

(G) The board shall ~~proceed to~~ set a hearing date on the 3440
engineer's proposed maintenance assessments for the drainage 3441
improvement not less than twenty-five nor more than ninety days 3442
~~thereafter after the engineer files a certificate of approval~~ 3443
and shall notify all persons whose names appear in the 3444
engineer's schedule of maintenance assessments in accordance 3445
with section 6131.16 of the Revised Code. At the hearing on the 3446
proposed assessments the board of county commissioners shall 3447
hear any evidence offered for or against the assessments 3448
proposed to be levied against any owner as shown by the schedule 3449
of assessments filed by the county engineer and shall hear any 3450
competent evidence on the question of benefits. 3451

(H) The board, from the evidence offered, may amend and 3452
correct the assessments, and the assessments so amended or 3453
corrected shall be approved by the board and the approval 3454
entered on its journal. Once the assessments have been approved, 3455
all further proceedings in connection with the maintenance of 3456
the improvement shall be in accordance with Chapter 6137. of the 3457
Revised Code. 3458

(I) The clerk shall record the agreement, plan, and 3459
schedules in the drainage records of the county, and the 3460
agreement shall locate and establish the improvement as a ~~public~~ 3461
~~watercourse~~ drainage improvement. The improvement shall then be 3462
constructed by the owner in accordance with the approved plans. 3463

(J) This section shall not be interpreted to include 3464
improvements or changes in stream channels that may be made by 3465

the department of transportation or other public agencies or 3466
railroads at their own expense for the purpose of providing a 3467
more adequate waterway along a highway or at the site of a 3468
bridge or culvert or to improve conditions of flow through them 3469
or for the purpose of protecting the highway or road bed and 3470
that do not limit future deepening of the channel. 3471

Sec. 6131.631. (A) When construction of a new single span 3472
bridge or culvert or extension of an existing culvert that will 3473
limit the future deepening of a public watercourse is 3474
contemplated in connection with the construction of a state 3475
highway or other public improvement, the director of 3476
transportation or other public agency proposing the construction 3477
shall file plans for the construction with the clerk of the 3478
board of county commissioners of the county in which the 3479
construction or improvement is to be constructed, ~~who~~. 3480

(B) The clerk shall immediately refer the plans to the 3481
county engineer ~~for examination and review~~. 3482

~~The county engineer who~~ shall review the proposed 3483
location, both horizontal and vertical, of the proposed 3484
structures and the effect of the proposed improvements on any 3485
other improvements and on any highways in the area. 3486

(C) The county engineer shall file, within sixty days, 3487
with the clerk of the board of county commissioners and the 3488
director of transportation or other public agency a report of 3489
the review with such recommendations for change, amendment, or 3490
alteration in the plans for the proposed improvement as the 3491
engineer may determine to be necessary in the public interest. 3492

(D) When the plans for the proposed improvements as 3493
presented, or as amended pursuant to the county engineer's 3494

recommendations, are approved by the county engineer, the 3495
engineer shall file, within sixty days, a certificate of 3496
approval with the clerk of the board of county commissioners. If 3497
the engineer does not file such a report of ~~his~~ the engineer's 3498
review with the clerk within sixty days after the date that the 3499
plans were referred to ~~him~~ the engineer, the engineer's approval 3500
shall be presumed by the clerk. 3501

(E) The improvement shall then be constructed in 3502
accordance with the approved plans at the expense of the 3503
department of transportation or other public agency. 3504

Sec. 6131.64. (A) Upon a petition being filed and a bond 3505
given as provided for the location and construction of an 3506
improvement, and upon the same proceedings with notice to 3507
interested parties for a hearing upon the petition, and with the 3508
same hearing as is provided for the location of an improvement, 3509
the board of county commissioners may determine whether any 3510
ditch or drain described in the petition has ceased to be a 3511
public utility, whether the public welfare no longer demands the 3512
maintenance thereof, and whether its vacation will be to the 3513
advantage of the public welfare. 3514

(B) If the board finds that the vacation of the ditch or 3515
drain will be conducive to the public welfare, it may declare 3516
the same to be vacated and abandoned as a public ditch or drain 3517
and its location and establishment held for naught. The private 3518
rights of persons acquired by reason of the location and 3519
establishment of the ditch or drain shall not be interfered with 3520
nor impaired ~~thereby~~ without due compensation being made 3521
~~therefor~~, which compensation may be assessed on property that is 3522
benefited by the vacation of the ditch or drain. 3523

(C) All proceedings relating to the vacation of a ditch or 3524

drain shall be conducted in accordance with ~~sections 6131.01 to~~ 3525
~~6131.64 of the Revised Code~~ this chapter, with all rights of 3526
appeal as provided in such sections. 3527

Sec. 6133.01. As used in ~~sections 6133.01 to 6133.11,~~ 3528
~~6133.14, and 6133.15 of the Revised Code,~~ "owner," this chapter: 3529

(A) "Owner," "person," "public corporation," "land," 3530
"benefit," and "improvement" have the meaning set forth same 3531
meanings as in section 6131.01 of the Revised Code. 3532

(B) "Lead county" means the county in which the majority 3533
of the initial length of a joint county drainage improvement 3534
would be located, as specified in an original petition filed 3535
under section 6133.02 of the Revised Code. 3536

Sec. 6133.02. (A) When an improvement is proposed to be 3537
located in or benefits or damages land in two or more counties, 3538
the proceeding shall be conducted by a joint board of county 3539
commissioners consisting of the members of the boards of county 3540
commissioners of the several counties in which land may be 3541
benefited or damaged by the proposed improvement. ~~In such case,~~ 3542
~~the~~ 3543

(B) The petition for the a joint county drainage 3544
improvement shall be filed with the clerk of the board of county 3545
commissioners of the lead county ~~in which the majority of the~~ 3546
~~proposed improvement is located.~~ 3547

Sec. 6133.03. (A) A joint board of county commissioners 3548
may do all the things that a board of county commissioners may 3549
do in a single county improvement, and shall be governed by and 3550
be subject to sections 6131.01 to 6131.64 of the Revised Code, 3551
relating to single county ditches insofar as applicable. ~~The~~ 3552
~~proceedings~~ 3553

(B) Except as otherwise provided for in this chapter, a 3554
petition for a joint county improvement shall proceed before the 3555
joint board of county commissioners the same as if the joint 3556
board were a board of county commissioners representing a county 3557
that included all the territory of all the counties represented 3558
by the commissioners on the joint board, except as otherwise 3559
modified in accordance with this chapter. The 3560

(C) The cost of a joint county improvement shall be paid 3561
by the counties affected by such improvement, in proportion to 3562
their total ditch-drainage assessments, or as otherwise 3563
apportioned by the joint board, for such improvement. To meet 3564
its portion of such cost, a board of county commissioners may 3565
borrow such sums of money as are apportioned to the county, and 3566
may issue and sell the bonds of the county to secure the payment 3567
of the principal and interest of the sum borrowed. Such 3568
principal and interest shall be paid as provided in section 3569
133.26 of the Revised Code. All rights of appeal, and all other 3570
rights or remedies as provided in sections 6131.01 to 6131.64 of 3571
the Revised Code, apply to joint county improvements. All 3572
officers doing any acts or making any findings for or against 3573
such improvement shall perform all the duties required of them 3574
under such sections. 3575

(D) All owners affected by the proceedings for a joint 3576
county improvement shall have all the rights and remedies given 3577
them in the case of single county improvements. The proceedings 3578
in joint county improvements shall be the same as the 3579
proceedings in single county improvements except as modified in 3580
sections 6133.02 to 6133.11 of the Revised Code. All rights of 3581
appeal and all other rights or remedies as provided in Chapter 3582
6131. of the Revised Code apply to joint county improvements. 3583

Sec. 6133.04. (A) On the date fixed by the clerk of the 3584
board of county commissioners with whom the petition was filed, 3585
the board of county commissioners from each of the counties 3586
affected by a proposed joint county improvement shall meet ~~in~~ 3587
~~the county in which the petition is filed~~ and organize a joint 3588
board of county commissioners by electing one of their number 3589
president. ~~The~~ 3590

(B) ~~The~~ clerk of the board of county commissioners of the 3591
lead ~~county in which the petition is filed~~ shall act as clerk 3592
and administrator of the joint board and shall enter the 3593
findings of the joint board in the journal of the board of 3594
county commissioners of ~~his~~ the clerk's county, shall do all 3595
things required to be done by the clerk, and shall make the 3596
final record of the improvement in ~~his~~ the clerk's county. The 3597
clerk shall ~~file certified~~ provide copies of all proceedings 3598
with the clerks of the boards of all affected counties. ~~A~~ 3599

(C) A majority of the county commissioners constituting 3600
the joint board shall constitute a quorum. All decisions of the 3601
joint board shall be made by a vote of a majority of the county 3602
commissioners constituting the joint board. ~~The~~ 3603

(D) ~~The~~ director of ~~the department of natural resources~~ 3604
agriculture shall be a member ex officio of the joint board and 3605
may participate, either in person or through a designated 3606
representative, in deliberations and proceedings of the joint 3607
board but shall have no vote except in case of a tie, in which 3608
case the proceedings shall be adjourned for thirty days, during 3609
which time the director shall review the proceedings and cast 3610
the deciding vote. The vote shall be recorded in the journal. 3611
~~After~~ 3612

(E) After the view of ~~the~~ a proposed improvement by the 3613

joint board of county commissioners, all hearings shall be held 3614
in the lead county ~~in which the petition is filed unless a~~ 3615
majority of the joint board of county commissioners agree to an 3616
alternative location. 3617

(F) When the joint board of county commissioners is 3618
formed, the joint board of county commissioners shall be 3619
administered by the lead county's elected officials, including 3620
the lead county's county engineer, county recorder, county 3621
auditor, county prosecutor, common pleas judges, county 3622
treasurer, and clerk of the board of county commissioners. 3623

Sec. 6133.041. (A) Notwithstanding any other provision of 3624
this chapter or Chapter 6131. of the Revised Code to the 3625
contrary, a joint board of county commissioners, when 3626
practicable, may conduct ~~proceedings regarding existing~~ 3627
~~improvements meetings~~ by video conference or, if video 3628
conference is not available, by teleconference. The joint board 3629
of county commissioners shall make provisions for public 3630
attendance at any location involved in such a ~~proceeding~~ 3631
meeting. The ~~participation of any commissioner or board of~~ 3632
~~county commissioners in a video conference or teleconference~~ 3633
~~shall occur at the location of the commissioners' main office or~~ 3634
~~board room~~ joint board shall establish the joint board's main 3635
office or board room as the primary meeting location for the 3636
video conference or teleconference. The conference shall be held 3637
at that location in an open meeting at which the public is 3638
allowed to attend. 3639

(B) Before convening a meeting of a joint board of county 3640
commissioners by video conference or by teleconference, 3641
designated staff shall send, via electronic mail, facsimile, or 3642
United States postal service, a copy of meeting-related 3643

documents to each member of the joint board.

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

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

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Sec. 6133.05. ~~In the matter of an improvement under~~
~~sections 6133.02 to 6133.11 of the Revised Code, there shall be~~
~~included as a portion of the costs and expenses to be paid by~~
~~the petitioners, if the petition authorized by section 6133.02~~
~~of the Revised Code is dismissed, or assessed to them as a part~~
~~of the costs, if the petition is granted, the~~ (A) As used in
this section, "actual expenses" means the actual expenses of the
members of the joint board of county commissioners for the
performance of their duties at places other than in their own
county.

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(B) If a petition filed under section 6133.02 of the
Revised Code is dismissed, the actual expenses shall be paid by
the petitioners.

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(C) If a petition filed under section 6133.02 of the
Revised Code is granted, the actual expenses shall be included
in the costs of the project.

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Sec. 6133.06. (A) Upon the filing of ~~the a~~ petition
~~authorized by under~~ section 6133.02 of the Revised Code, the
clerk of the board of county commissioners ~~with whom the~~

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~~petition is filed of the lead county shall call a joint meeting~~ 3673
~~of the boards of county commissioners of all the affected~~ 3674
~~counties interested to be held at a designated place in the~~ 3675
~~county in which the petition is filed affected area at a date~~ 3676
~~not more than thirty days after the filing of the petition for~~ 3677
~~the purpose of organizing the joint board. The~~ 3678

(B) The clerk of the lead county shall give notice of the 3679
filing of the petition and of the meeting to the board of ~~his~~ 3680
the clerk's county and shall mail the notice together with a 3681
copy of the petition to the clerks of the boards of the county 3682
commissioners of the other counties interested who shall 3683
immediately notify the boards of their counties of the filing of 3684
the petition and of the date fixed for the meeting of the joint 3685
board. ~~All applications, remonstrances, claims for compensation~~ 3686
~~or damages, reports, schedules, certificates, statements,~~ 3687
~~contracts, bonds, and other papers shall be filed with the clerk~~ 3688
~~with whom the petition is filed.~~ 3689

(C) The clerk of the lead county shall file certified 3690
copies of all proceedings and filings with the clerks of the 3691
boards of all affected counties. 3692

Sec. 6133.07. (A) (1) The county auditor and county 3693
treasurer of the lead county ~~in which the petition authorized by~~ 3694
~~section 6133.02 of the Revised Code is filed shall ex officio~~ 3695
~~become~~ are the fiscal agents of all the counties interested in 3696
the proposed improvement. ~~Such~~ 3697

(2) The clerk of the joint board shall present bills for 3698
payment to the fiscal agents in the same manner as a request for 3699
payment would be made with respect to a single county drainage 3700
improvement. 3701

(3) The fiscal agents shall process and pay each bill for 3702
the joint board of county commissioners presented. 3703

(B) The auditor of the lead county shall 3704
auditor of the other counties a schedule of the assessments to 3705
be levied for the cost of locating and constructing the 3706
improvement and the auditor of such other county shall ~~proceed~~ 3707
~~forthwith to~~ place such assessment upon the duplicates. The 3708
assessments so certified for collection to an auditor of another 3709
county shall be a lien on the land within such county from the 3710
date such certificate is received by the auditor of such other 3711
county. ~~The~~ 3712

(C) The treasurer of each county shall 3713
the ~~same assessments~~ pursuant to the orders made in ~~said the~~ 3714
proceedings for a joint drainage improvement, and ~~such shall pay~~ 3715
the assessments ~~when collected shall be paid to the treasurer of~~ 3716
the lead county ~~in which the petition was filed. The~~ 3717

(D) The auditor and the treasurer of the lead county shall 3718
receive and account for such funds in the same manner as they 3719
receive and account for assessments collected for single county 3720
improvements. ~~The treasurer and the auditor with their bondsmen~~ 3721
bonders shall be liable on their official bonds for any 3722
misappropriation of such funds. ~~All~~ 3723

(E) All warrants for the payment of costs of location and 3724
for costs of construction of a joint county improvement shall be 3725
drawn by the auditor of the lead county ~~in which the petition is~~ 3726
~~filed,~~ on the treasurer of ~~said the~~ lead county, payable out of 3727
the general ~~ditch drainage~~ improvement fund of ~~said the lead~~ 3728
county. ~~If the~~ 3729

(F) If a petition for the a joint drainage improvement is 3730

dismissed after the costs and expenses have been incurred in 3731
making the lead county engineer's reports and schedules provided 3732
for in section 6133.08 of the Revised Code, such costs shall be 3733
paid by the several counties respectively, as the joint board of 3734
county commissioners deems just and equitable. All assessments 3735
when collected in all the counties and any amount which another 3736
county should pay shall be paid into the treasury of the lead 3737
county ~~in which the petition was filed,~~ and credited to the 3738
general ~~ditch-drainage~~ improvement fund of ~~said the lead county.~~ 3739

Sec. 6133.08. (A) The joint board may designate the county 3740
engineer of the lead county ~~where the petition is filed to do is~~ 3741
responsible for the field work and shall make the survey, plans, 3742
and estimates, ~~but the~~ for the joint drainage improvement. The 3743
county engineer of each affected county ~~interested~~ shall assist 3744
in making the reports and schedules. All reports and schedules 3745
of the lead county's county engineer shall be signed and 3746
approved by all the county engineers of the several affected 3747
counties ~~interested~~ and shall be filed with the clerk ~~with whom~~ 3748
~~the petition is filed~~ of the lead county. ~~If the engineers of~~ 3749
~~the several counties interested do not concur in the reports or~~ 3750
~~schedules, separate reports or schedules may be filed by one or~~ 3751
~~more of the engineers, and the costs thereof shall be paid by~~ 3752
~~the counties from which the separate reports or schedules are~~ 3753
~~filed. In making up the schedules and reports the engineers~~ 3754
~~shall proceed to make the schedules and reports of the~~ 3755
~~improvement the same as if the improvement were an improvement~~ 3756
~~within a county of the size of the several counties interested~~ 3757
~~in the proposed improvement. The engineers who do not make the~~ 3758
~~survey may make such observations and take such levels as are~~ 3759
~~necessary to assist them in making their schedules and in~~ 3760
~~arriving at the proper amount to be assessed against each tract~~ 3761

~~of land.~~

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(B) ~~The county engineer who did the field work and made~~
~~the survey and plans of the lead county~~ shall proceed to take
bids, inspect the progress of the work and make estimates and
reports on the progress of the work, accept the work and
material for the improvement, and issue certificates therefor,
as in the case of single county improvements, ~~and shall do all~~
~~things to be done by an engineer after the letting of the~~
~~contracts under Chapter 6131. of the Revised Code.~~

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Sec. 6133.09. (A) The hearing on the reports and schedules
of the county engineers provided for by section 6133.08 of the
Revised Code and all other proceedings relative to a proposed
joint county improvement shall be had the same as in single
county ~~ditches drainage improvements. Claims~~

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(B) Claims for compensation for land taken or for damages
to land may be appealed by an affected owner ~~interested~~, or by
the prosecuting attorney, to the court of common pleas of the
county in which the land for which the owner claims compensation
or damages is located. ~~All~~

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(1) All claims for compensation or damages which are
allowed shall be paid out of the treasury of the county in which
such land is located. ~~The~~

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(2) ~~The county auditor of the lead county in which the~~
~~petition is filed~~ shall certify the amounts of compensation or
damages so found by the joint board of county commissioners to
the auditors of the other counties, respectively, for payment.

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(C) If an appeal is taken on the question of compensation
or damages, the auditor of the lead county ~~in which the petition~~
~~is filed~~ shall transmit to the clerk of the court of common

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pleas of the county in which the land of the appellant is 3791
located the original papers relating to the claim for 3792
compensation or damages and a certified transcript of the 3793
findings on the improvement and on the claim, which shall be 3794
docketed by the clerk and shall proceed the same as an appeal on 3795
a claim for compensation or damages in a single county 3796
improvement proceeding. 3797

Sec. 6133.10. (A) All appeals to the court of common pleas 3798
except appeals on claims for compensation or damages shall be 3799
heard by a panel of judges consisting of one judge of the court 3800
of common pleas from each of the affected counties~~interested,~~ 3801
~~sitting en banc. If~~ 3802

(1) If the panel cannot reach a decision, the panel may 3803
request the addition of a judge from a court of common pleas in 3804
the area of the state in which the joint drainage improvement is 3805
located. 3806

(2) The panel shall follow court opinions and precedent 3807
established by the appellate district in which the petition for 3808
the joint drainage improvement was filed. 3809

(3) If a judge is disqualified or for any reason~~does not~~ 3810
~~care or refuses~~ to hear ~~the a~~ case, the chief justice of the 3811
supreme court shall designate a judge to sit in ~~his~~ the judge's 3812
place. ~~Appeals~~ 3813

(B) All appeals on claims for compensation or damages 3814
shall be tried by jury as provided in ~~sections 6131.01 to~~ 3815
~~6131.64, inclusive,~~ Chapter 6131. of the Revised Code. 3816

Sec. 6133.11. (A) If~~the a~~ joint board of county 3817
commissioners ~~finds for the~~ approves a proposed joint drainage 3818
improvement and but, at the final hearing for the improvement, 3819

is unable to agree ~~upon~~ on the amount to be assessed to ~~each~~ an
affected county to be paid by the county because the improvement
~~is for improvements~~ conducive to the public welfare, or of
benefit to public highways or ~~to~~ land owned by ~~the~~ an affected
county, ~~then such the~~ joint board shall by resolution state ~~the~~
~~fact that such the~~ joint board is not able to agree ~~as to such~~
fact on the assessments. Upon

(1) Upon the adoption of ~~such the~~ resolution, the question
shall be appealed to the court of common pleas as is provided in
sections 6133.02 to 6133.11, ~~inclusive~~, of the Revised Code. ~~No~~

(2) No bond on appeal need be filed, and the resolution of
the joint board ~~stating such inability to agree~~ shall be deemed
the statement on appeal. ~~The~~

(3) The clerk of the joint board shall perfect the appeal
by filing a transcript, ~~including of~~ the resolution ~~of the joint~~
~~board finding that the joint board cannot agree, with all of the~~
~~original papers, in the court and the record of proceedings for~~
the joint improvement. The

(B) The court shall hear ~~such an~~ appeal under this section
the same as other appeals under sections 6133.02 to 6133.11, ~~—~~
~~inclusive~~, of the Revised Code, and make such order as to costs
as is equitable.

Sec. 6133.14. The state shall pay to the county treasurer
of the lead county ~~in which the petition for a drainage~~
~~improvement was filed~~ the assessment levied against it for the
state's proportionate share of the cost of any improvement
authorized or constructed under sections 6131.01 to 6131.64,
6133.01 to 6133.15, and 6135.01 to 6135.27 of the Revised Code
and all unpaid assessments for maintenance as provided by

sections 6137.01 to 6137.12 of the Revised Code. 3849

Sec. 6137.01. As used in ~~sections 6137.01 to 6137.14,~~ 3850
~~inclusive, of the Revised Code, "owner,"~~ this chapter: 3851

(A) "Owner," "benefit," "lead county," and "improvement," 3852
have the ~~meaning set forth same meanings as~~ in section 6131.01 3853
of the Revised Code. 3854

(B) "Force account" has the same meaning as in section 3855
5543.19 of the Revised Code. 3856

Sec. 6137.02. (A) The board of county commissioners of 3857
each county shall establish and maintain a fund within each 3858
county for the repair, upkeep, and permanent maintenance of each 3859
improvement constructed ~~under Chapter 6131. of the Revised Code.~~ 3860
~~After after August 23, 1957, a maintenance fund also shall be~~ 3861
~~established and maintained by each joint board of county~~ 3862
~~commissioners for the repair, upkeep, and permanent maintenance~~ 3863
~~of each improvement constructed under Chapter 6133. of the~~ 3864
~~Revised Code. A maintenance fund shall also be established for~~ 3865
~~the repair, upkeep, and permanent maintenance of each~~ 3866
~~improvement constructed under Chapter 6135. of the Revised Code~~ 3867
~~if the necessary privilege to do so has been granted by the~~ 3868
~~legislature of the other state under Chapter 940., 6131., 6133.,~~ 3869
or 6135. of the Revised Code. If 3870

(B) If the improvement affects only a single county of the 3871
state, the board of county commissioners of that county shall 3872
establish and maintain the fund. If two or more counties of the 3873
state are affected by the improvement, the joint board of county 3874
commissioners organized under ~~Chapter~~ Chapters 940., 6133., and 3875
6135. of the Revised Code shall establish and maintain the fund. 3876

Sec. 6137.03. (A) (1) The maintenance fund shall be 3877

maintained, as needed, by an assessment levied not more often 3878
than once annually upon the benefited owners, ~~as defined in~~ 3879
~~section 6131.01 of the Revised Code,~~ apportioned on the basis of 3880
the estimated benefits for ~~construction~~ all costs of the 3881
improvement. ~~An~~ 3882

(2) An assessment shall represent such a percentage of the 3883
estimated benefits as is estimated by the engineer and found 3884
adequate by the board or joint board to effect the purpose of 3885
section 6137.02 of the Revised Code, except that at no time 3886
shall a maintenance fund have an unencumbered balance greater 3887
than twenty per cent of ~~all construction costs of the~~ 3888
~~improvement~~ the permanent assessment base for maintenance 3889
established under section 6137.11 of the Revised Code. ~~The~~ 3890

(3) The minimum assessment shall be two dollars. 3891

~~The~~ (B) A maintenance assessment shall be made by the 3892
board of county commissioners ~~in the case of a single county~~ 3893
~~improvement, or by the joint board in the case of a joint of~~ 3894
~~county improvement,~~ commissioners upon the substantial 3895
completion of ~~an a drainage improvement and on or before the~~ 3896
~~first day of July in each year thereafter.~~ The maintenance 3897
assessment shall be certified by the clerk of the board or joint 3898
board to the county auditor in case of a single county 3899
improvement, and to the county auditor of each affected county 3900
~~interested in the case of in a joint county improvement, and.~~ 3901
The auditor or auditors shall be placed by the auditor or 3902
auditors place the assessment on the next succeeding tax 3903
duplicate to be collected and paid as other special assessments 3904
are collected and paid. 3905

(C) With respect to a single county improvement, the 3906
county engineer shall inspect the drainage improvements in the 3907

county. On or before the first day of July of each year, the 3908
county engineer shall report to the board of county 3909
commissioners both of the following: 3910

(1) The county engineer's findings regarding the present 3911
condition of the drainage improvements in the county; 3912

(2) An estimate of the amount of funds necessary to repair 3913
and maintain the improvements for the following year. 3914

With regard to a joint county improvement, the county 3915
engineer of each applicable county shall make such a report to 3916
the joint board. 3917

(D) (1) The board shall use the county engineer's estimate 3918
to determine the annual drainage maintenance assessments, which 3919
shall be based on a percentage of the permanent assessment base. 3920

(2) On or before the second Monday of September in each 3921
year, the board shall direct the county auditor or auditors, as 3922
applicable, to place the maintenance assessments on the tax 3923
duplicate. 3924

(E) (1) With respect to a single county improvement, the 3925
county auditor shall place maintenance assessments received for 3926
a drainage improvement into the maintenance fund designated for 3927
the drainage improvement. 3928

(2) With respect to a joint county improvement, the county 3929
auditor of each county that is not the lead county shall place 3930
maintenance assessments received for a drainage improvement into 3931
the maintenance fund designated for the drainage improvement. 3932
Twice a year, each county auditor of a county that is not a lead 3933
county shall transfer money in that fund to the county auditor 3934
of the lead county, who shall deposit the money into the joint 3935
drainage improvement's maintenance fund. The county auditor of 3936

the lead county shall place maintenance assessments received in 3937
the lead county for the drainage improvement into the joint 3938
drainage improvement's maintenance fund. 3939

Sec. 6137.04. (A)(1) The board of county commissioners, 3940
upon recommendation of the county engineer, ~~is hereby authorized~~ 3941
~~to may~~ combine improvements ~~within the same watershed~~ into a 3942
drainage maintenance district, in which the maintenance 3943
assessment shall be the same percentage of original cost for 3944
each improvement to be maintained. ~~In grouping~~ 3945

(2) In combining improvements into drainage maintenance 3946
districts, the county engineer and the board of county 3947
commissioners shall consider ~~uniformity-similarity~~ of costs, 3948
topography, and soil types so that improvements within the same 3949
district ~~represent-present~~ substantially the same maintenance 3950
~~problem-issues~~ and ~~can be kept in proper repair at cost~~ 3951
~~sufficiently uniform as to constitute no substantial inequity~~ 3952
~~for any owners to be included in a district maintenance program~~ 3953
costs. The county auditor shall maintain one drainage 3954
maintenance fund for each such district. ~~A-~~ 3955

(3) A maintenance district may include all or any part of 3956
a county. 3957

(B) The board of county commissioners, upon recommendation 3958
of the county engineer, may combine improvements in accordance 3959
with the type of improvement into one drainage maintenance fund 3960
so that ditches or drains that are enclosed in tile, or other 3961
improvements having similar maintenance costs, may be 3962
administered for maintenance under the same maintenance fund. 3963

(C)(1) In the case of each joint county ~~ditch-drainage~~ 3964
improvement, the county auditor of the lead county ~~having the~~ 3965

majority of the improvement shall maintain a separate 3966
maintenance fund for the improvement. ~~The~~ 3967

(2) ~~The~~ owners subject to the original assessment for the 3968
improvement shall constitute one maintenance district for the 3969
purpose of repair, upkeep, and maintenance of the improvement. 3970

(3) ~~The~~ county engineer of the lead county ~~having the~~ 3971
~~majority of the improvement~~ shall serve as the county engineer 3972
in charge of maintenance and, after consultation with the 3973
engineer of any other county affected, shall annually file a 3974
report of inspection with a recommendation as to the amount of 3975
the maintenance assessment by the same procedure as provided by 3976
section 6137.03 of the Revised Code for assessment in the case 3977
of a single county ~~ditch~~ drainage improvement. 3978

Sec. 6137.05. (A) ~~The~~ maintenance fund ~~created~~ established 3979
under ~~authority of~~ section ~~6137.01~~ 6137.02 of the Revised Code 3980
shall be subject to use of the board of county commissioners, or 3981
joint board of county commissioners, ~~as the case may be,~~ for the 3982
necessary and proper repair or maintenance of any drainage 3983
improvement constructed under ~~sections 6131.01 to 6131.64,~~ 3984
~~6133.01 to 6133.15, and 6135.01 to 6135.27~~ Chapters 940., 6131., 3985
6133., and 6135. of the Revised Code. 3986

~~(A)~~ (B) Whenever the board, or the joint board, from its 3987
own observation or the recommendation of the county engineer or 3988
the lead county's county engineer, or on the written complaint 3989
of any ~~of the owners of lands~~ owner of land subject to the 3990
maintenance assessment, ~~has reason to believe the improvement is~~ 3991
~~in~~ identified a need of ~~for the~~ repair or maintenance of a 3992
drainage improvement, ~~it shall as a board, or by the county~~ 3993
~~engineer, make an inspection of its~~ shall inspect the condition, 3994
~~and, if it finds the need to exist, it shall make an estimate of~~ 3995

~~the cost of the necessary work and material required for the~~ 3996
~~purpose. If the nature of the work is such as to be done most~~ 3997
~~economically and expeditiously by force account, the board shall~~ 3998
~~cause the proper work to be done by that method under the~~ 3999
~~supervision of the county engineer and certify the costs to the~~ 4000
~~county auditor or county auditors for payment from the~~ 4001
~~maintenance fund. If the finding is that necessary repair and~~ 4002
~~maintenance on an improvement or improvements within a~~ 4003
~~maintenance district can be more economically or efficiently~~ 4004
~~done by contract, the board, or joint board in the case of a~~ 4005
~~joint county improvement, shall cause the engineer to prepare~~ 4006
~~proper specifications, covering the requirements for the~~ 4007
~~particular case, to advertise for bids thereon, as in the case~~ 4008
~~of original construction, under section 6131.24 of the Revised~~ 4009
~~Code, and to let the contract for the required work and material~~ 4010
~~to the lowest and best bidder, who, upon the performance of the~~ 4011
~~work certified by the engineer, shall certify the same to the~~ 4012
~~auditor or auditors for payment from the maintenance fund~~ 4013
~~of the~~ 4013
~~drainage improvement.~~ 4014

~~(B) When the repair or maintenance is upon a joint county~~ 4015
~~ditch improvement, the amount of the cost thereof shall be~~ 4016
~~certified to the auditor of each of the counties into which the~~ 4017
~~ditch extends and has lands subject to the maintenance fund~~ 4018
~~assessment, and the certificate shall state the proportional~~ 4019
~~part of the cost to be paid from the portion of the maintenance~~ 4020
~~fund in the county, according to the original apportionment of~~ 4021
~~benefits on the owners in the county subject to maintenance~~ 4022
~~assessment. Upon the certificates being received, the auditors~~ 4023
~~of the counties obligated shall immediately forward their~~ 4024
~~several amounts or vouchers therefor to the auditor of the~~ 4025
~~county having the majority of the improvement through whose~~ 4026

~~office, from the aggregate payments of all the counties~~ 4027
~~interested, the payment for the work and material, whether by~~ 4028
~~force account or contract, shall be paid. The location of the~~ 4029
~~work required on a joint county improvement, whether in one~~ 4030
~~county or another, or whether extending into two or more~~ 4031
~~counties, shall not affect the obligation of contribution for~~ 4032
~~any necessary work upon the improvement in any portion of its~~ 4033
~~length wherever located, the improvement for maintenance~~ 4034
~~purposes being considered a single unit. As far as applicable,~~ 4035
~~the procedures provided by section 6133.08 of the Revised Code~~ 4036
~~with respect to cooperation of county engineers in field work~~ 4037
~~shall apply to maintenance of joint county improvements.~~ 4038

~~The repair and maintenance on any improvement may be done~~ 4039
~~in part by contract and in part by force account, it being the~~ 4040
~~duty of the board of county commissioners, or the joint board of~~ 4041
~~county commissioners, and the county engineer to use the best~~ 4042
~~and most economical methods under local conditions for the~~ 4043
~~various phases of the maintenance program, such as excavating,~~ 4044
~~clearing, cleaning, snagging, physical and chemical control of~~ 4045
~~land and aquatic vegetation, and repair of banks and structures.~~ 4046

(C) If the county engineer finds that the drainage 4047
improvement is in need of repair or maintenance, the county 4048
engineer shall do all of the following: 4049

(1) Make an estimate of the cost of the necessary work; 4050

(2) Determine the most efficient and economical manner to 4051
complete the work, including conducting the work in various 4052
phases if determined necessary. The county engineer shall take 4053
into account local conditions that may pertain to a maintenance 4054
program such as excavation, snagging, clearing, cleaning, 4055
physical and chemical control of vegetation, and reparation of 4056

banks and structures. The county engineer may determine whether 4057
the work shall be performed by force account, contract, or a 4058
combination of the two. However, if a contract is used for the 4059
work, the county engineer shall comply with sections 307.86 to 4060
307.92 of the Revised Code. 4061

(3) Determine a schedule for completion of the work 4062
subject to the availability of funds in the appropriate 4063
maintenance fund; 4064

(4) Certify the actual cost of completion of the work to 4065
the county auditor or lead county's county auditor for payment 4066
from the appropriate maintenance fund. 4067

(D) The board or joint board and the county engineer may 4068
contract with a soil and water conservation district for the 4069
repair, upkeep, and permanent maintenance of any drainage 4070
improvement for which the county engineer is responsible, 4071
whether as the county engineer or as the lead county engineer. 4072

Sec. 6137.051. (A) Whenever the owner of any lands 4073
assessed for construction of an improvement authorized prior to 4074
August 23, 1957, files a written complaint that the improvement 4075
is in need of repair, the county engineer or ~~his~~ the county 4076
engineer's designated representative shall make an inspection of 4077
the condition of the improvement within sixty days of receipt of 4078
the complaint and shall request the owner to ~~accompany him~~ be 4079
present at the inspection. ~~If~~ 4080

(B) If the county engineer finds that a need exists, ~~he~~ 4081
the county engineer shall make an estimate of the cost of the 4082
necessary work and material required for the repair. ~~The~~ 4083

(C) The board of county commissioners, if it finds the 4084
work to be necessary and feasible, may authorize the county 4085

engineer to make the repairs at a cost not to exceed ~~four~~ 4086
twenty-four thousand dollars. ~~For~~ 4087

(D) ~~For~~ the purpose of paying for the necessary work and 4088
materials, the board of county commissioners may establish a 4089
drainage repair fund for the improvement to be repaired. The 4090
county engineer shall prepare and submit a schedule of 4091
assessments upon the benefiting lands to the board of county 4092
commissioners in the amount of the actual costs of the repair. 4093
The board of county commissioners may revise the estimated 4094
assessments as they consider equitable and shall certify the 4095
assessments to the county auditor for collection. ~~Not~~ 4096

(E) Not more than ~~four~~ten semiannual installments, as 4097
taxes are paid, shall be given to owners to pay for the repair 4098
assessments, and if any such assessment is twenty-five dollars 4099
or less, or whenever the unpaid balance of any such assessment 4100
is twenty-five dollars or less, the same shall be paid in full, 4101
and not in installments, at the time the first installment would 4102
otherwise become due. ~~If the drainage repair fund for the~~ 4103
~~improvement to be so repaired is inadequate for the repair, the~~ 4104
~~board of county commissioners may make payment for the repair~~ 4105
~~from the county general fund, which sum so paid from the general~~ 4106
~~fund shall be a charge against the appropriate drainage~~ 4107
~~maintenance fund to be repaid to the general fund as soon as~~ 4108
~~adequate funds are available in the drainage maintenance fund.~~ 4109

Sec. 6137.06. ~~The~~ (A) With regard to a single county 4110
improvement, the county engineer shall have ~~has~~ general charge 4111
and supervision of the repair and maintenance of all county ~~and~~ 4112
~~joint county ditches, drains, watercourses, and other drainage~~ 4113
~~improvements within his county constructed under sections~~ 4114
~~6131.01 to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, and~~ 4115

~~6137.051 Chapters 940., 6131., 6133., and 6135. of the Revised~~ 4116
~~Code. The county engineer shall make an inspection of the~~ 4117
~~drainage improvements and, on or before the first day of June in~~ 4118
~~each year, shall report to the board of county commissioners the~~ 4119
~~condition of the drainage improvements and his estimate of the~~ 4120
~~probable amount of funds required to repair and maintain them.~~ 4121
~~The estimates shall relate to the year beginning on the first~~ 4122
~~day of July next ensuing and shall be for the information of the~~ 4123
~~board of county commissioners in making their annual drainage~~ 4124
~~maintenance levies.~~ 4125

~~The engineer shall approve all estimates that are paid~~ 4126
~~from the county drainage maintenance fund for the repair and~~ 4127
~~maintenance of drainage improvements. With regard to a joint~~ 4128
county improvement, the lead county engineer has general charge 4129
and supervision of the repair and maintenance of all joint 4130
county drainage improvements constructed under Chapters 940., 4131
6131., 6133., and 6135. of the Revised Code. 4132

(B) The duties of the county engineer with respect to 4133
maintenance of any drainage improvement begin upon the 4134
substantial completion of the improvement. In preparing plans 4135
and specifications for repair and maintenance of a drainage 4136
improvement, the county engineer shall provide for necessary 4137
clearing of tree and brush growth, removal of silt bars, 4138
spreading and leveling of spoil banks, and the preservation of a 4139
sod or seeded strip as provided in the case of new construction 4140
under section 6131.14 of the Revised Code. 4141

(C) Any number of persons person 4142
~~owning land along a~~ 4143
~~ditch, drain, watercourse, or other drainage improvement may~~ 4143
~~form an advisory committee for the purpose of notifying the~~ 4144
~~county engineer of any repair and maintenance work that needs to~~ 4145

be performed on the improvement. A committee formed for this 4146
purpose shall submit ~~their~~ recommendations to the county 4147
engineer not later than the first day of May of any year in 4148
which its members desire to notify ~~him~~ the county engineer of 4149
needed work. In determining the condition of the improvement in 4150
accordance with this section, the county engineer shall consider 4151
the committee's recommendations. 4152

~~The county auditor, before he issues his~~ (D) Before 4153
issuing a warrant for any moneys expended by the county for 4154
repair or maintenance of any drainage improvement, the county 4155
auditor shall require of the county engineer the assignment of 4156
the expense to the improvement or the drainage maintenance 4157
district in connection with which the expense was incurred. The 4158
county auditor shall keep such records as are necessary to show 4159
clearly at the close of each year the amount of money expended 4160
from the drainage maintenance funds on each drainage improvement 4161
or each drainage maintenance district. 4162

(E) The county auditor ~~shall~~ may establish and maintain a 4163
rotary fund for the purchase of equipment, materials, and labor 4164
related to the general maintenance of ~~waterecourses~~ drainage 4165
improvements under ~~Chapter 6137. of the Revised Code~~ this 4166
chapter. ~~This~~ The county auditor shall establish and maintain 4167
the fund ~~shall be established and maintained~~ by a proportionate 4168
withdrawal from the funds of each drainage improvement or each 4169
drainage maintenance district. 4170

(F) The county engineer shall establish a rental rate for 4171
equipment purchased with ~~this~~ the rotary fund. This rate shall 4172
be used in charging the equipment, along with material and 4173
labor, to the drainage improvement upon which it is used in 4174
order to reimburse the rotary fund. 4175

~~The duties of the county engineer with respect to~~ 4176
~~maintenance of any drainage improvement shall begin upon the~~ 4177
~~substantial completion of the improvement.~~ 4178

~~In preparing plans and specifications for repair and~~ 4179
~~maintenance of open ditches and in carrying out the plans either~~ 4180
~~by contract or force account, the county engineer shall provide~~ 4181
~~for necessary clearing of tree and brush growth, removal of silt~~ 4182
~~bars, spreading and leveling of spoil banks, and the~~ 4183
~~preservation of a sod or seeded strip as provided in the case of~~ 4184
~~new construction under section 6131.14 of the Revised Code, in~~ 4185
~~addition to the various phases of maintenance set forth in~~ 4186
~~section 6137.05 of the Revised Code.~~ 4187

~~Sections 6131.01 to 6131.64 of the Revised Code apply to~~ 4188
~~the maintenance fund with respect to receiving bids, statements~~ 4189
~~required in bids, letting contracts, competitive bidding, time~~ 4190
~~allowed under contract, supervision of contractor's work,~~ 4191
~~certification for payment, and other related matters.~~ 4192

Sec. 6137.07. (A) As used in this section, "drainage 4193
equipment" means machinery, tools, conveyances, or other 4194
equipment for the repair and maintenance of drainage 4195
improvements a board of county commissioners considers 4196
necessary. 4197

(B) The board of county commissioners may purchase such 4198
machinery, tools, conveyances, or other do both of the 4199
following: 4200

(1) Purchase drainage equipment for the repair and 4201
maintenance of drainage improvements under its jurisdiction as 4202
it considers necessary; 4203

(2) Provide a suitable place to house and store the 4204

drainage equipment.

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~~All such machinery, tools, conveyances, or The county~~
engineer shall be responsible for the care and custody of the
~~drainage equipment shall be under the care and custody of the~~
~~county engineer and shall be plainly and conspicuously marked~~
mark it as the property of the county. The

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(C) The county engineer shall annually, on the first day
second Monday of June January, make an inventory of all such
~~items the drainage equipment, indicating each article and~~
~~stating the its estimated value thereof, and deliver the~~
inventory to the board, which of county commissioners. The board
~~shall cause it to be placed keep the inventory on file. At the~~
~~same time he shall The county engineer may file with the board~~
~~his written recommendations as to what machinery, tools,~~
~~conveyances, and with the board for drainage equipment that~~
should be purchased for use in the county drainage maintenance
program during the ensuing year and ~~the its~~ estimated cost
thereof.

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~~The board shall provide a suitable place for housing and~~
~~storing machinery, tools, conveyances, and equipment owned by~~
~~the county. (D) All expenditures authorized by this section~~
shall be paid out of the drainage maintenance fund or funds. If
the drainage maintenance fund at any time is inadequate for such
purchase or other expenditure, the board of county commissioners
is authorized to make the payment from the county general fund,
which sum so paid from the general fund shall be a charge
against the drainage maintenance fund or funds to be repaid to
the general fund as soon as adequate funds are available in the
drainage maintenance fund or funds.

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Sec. 6137.08. ~~Any~~ (A) An owner may make application for

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reduction in ~~his~~ the owner's maintenance assessment due to work 4235
~~he~~ the owner proposes on any portion of a public ditch, 4236
watercourse, or other improvement. The application shall be 4237
filed with the county engineer on or before the first day of May 4238
in any year and shall state the nature of the work to be done, 4239
such as clearing brush, removing silt or debris, repair of 4240
structure, or other work necessary to preserve the improvement. 4241
~~The~~ 4242

(B) The county engineer, in making inspections of the 4243
drainage improvements, shall note the extent to which any owner 4244
that has applied for a reduction of the maintenance assessment 4245
under division (A) of this section has carried out such repair 4246
and maintenance work. ~~In~~ 4247

(C) In making the annual report and estimate to the board 4248
of county commissioners, the county engineer shall include a 4249
schedule containing the name of each owner who has applied for 4250
reduction of maintenance assessment ~~due to performance of repair~~ 4251
~~and maintenance work~~ under division (A) of this section and the 4252
percentage reduction, if any, that the county engineer 4253
recommends be granted to each owner. ~~The~~ 4254

(D) The board of county commissioners shall either confirm 4255
or reject the allowances recommended by the county engineer. The 4256
allowance confirmed as to each ~~land~~ owner shall be certified to 4257
the county auditor, who shall reduce the next annual maintenance 4258
assessment of the owner by the percentage so certified. 4259

Sec. 6137.09. (A) The board of county commissioners may 4260
grant to any owner a reduction of not more than fifty per cent 4261
of ~~his~~ the owner's annual maintenance assessment provided that 4262
the owner shall have filed with the county engineer a 4263
certificate of the board of supervisors of the soil conservation 4264

district of the county in which the land is located, certifying 4265
that ~~he~~ the owner is following practices in the cultivation or 4266
management of agricultural land that will reduce the runoff of 4267
surface water and the erosion of sediment and silt into drainage 4268
channels. The certificate shall be signed by the president and 4269
the secretary-treasurer of the soil and water conservation 4270
district board of supervisors and it shall remain in effect 4271
until canceled by the board of county commissioners. ~~The~~ 4272

(B) The county engineer shall have the right to may 4273
inspect the premises of any owner claiming assessment reduction 4274
due to soil and water conservation and to ask the soil 4275
conservation district for review of any certificate on file. 4276

(C) At the time he the county engineer makes his the 4277
annual report and estimate of maintenance costs, the county 4278
engineer shall transmit to the board of county commissioners all 4279
soil and water conservation certificates that ~~have been were~~ 4280
filed with ~~him~~ the county engineer. ~~The~~ 4281

(D) The clerk of the board of county commissioners, on or 4282
before the first day of ~~July~~ August in each year, shall file 4283
with the county auditor a list of owners who have been ~~certified~~ 4284
~~by the soil conservation district for a fifty per cent granted a~~ 4285
reduction in maintenance assessment for the current year under 4286
this section. 4287

Sec. 6137.10. If the cleaning out or repair of a ditch, 4288
drain, or watercourse, repair or replacement of tile, or repair 4289
of any abutment, catch basin, retaining wall or other 4290
improvement is made necessary in whole or in part by the 4291
negligent acts or omissions of ~~any~~ an owner, the board of county 4292
commissioners ~~after shall conduct~~ a hearing ~~subsequent to thirty~~ 4293
~~days notice regarding the acts or omissions. The board shall~~ 4294

give notice of the hearing thirty days prior to the hearing 4295
pursuant to the provisions of section 6131.07 of the Revised 4296
Code. After the hearing, the board may add to the maintenance 4297
assessment of ~~such~~ the negligent owner an additional repair 4298
assessment in an amount sufficient to rectify the damage. ~~Such~~ 4299
The added assessment shall be made on recommendation of the 4300
county engineer and certified to the county auditor at the same 4301
time the annual maintenance assessment is certified by the 4302
board. 4303

Sec. 6137.11. (A) The original schedule of benefit 4304
assessments upon owners for the construction of any improvement 4305
shall be maintained by the county auditor as the permanent 4306
assessment base for maintenance ~~assessments~~. The county auditor 4307
shall levy the maintenance assessments ~~shall be levied by the~~ 4308
~~county auditor~~ in such percentage of the permanent assessment 4309
base as is authorized by the board of county commissioners. 4310

~~The board of county commissioners, before~~ (B) Before 4311
certifying the percentage of the permanent assessment base to be 4312
levied in any one year for the ~~drainage~~ maintenance fund, the 4313
board of county commissioners shall consider any recommendation 4314
by the county engineer and any application by ~~any~~ an owner for 4315
increase or reduction of the permanent assessment base as it 4316
applies to ~~any~~ an owner. 4317

~~Any such increase or reduction of the permanent assessment~~ 4318
~~base with respect to any owner shall be made for the purpose of~~ 4319
~~correcting any inequity that has arisen due to increase or~~ 4320
~~decrease in the proportionate share of benefits accruing to the~~ 4321
~~owner as the result of the construction and maintenance of the~~ 4322
~~improvement.~~ 4323

(C) (1) After six annual maintenance fund assessments have 4324

been made upon the owners benefiting from an improvement, the 4325
board of county commissioners shall review the permanent 4326
assessment base for maintenance fund assessment and may increase 4327
or decrease the respective benefit apportionments in accordance 4328
with changes in benefits that have occurred during the 4329
intervening six years. 4330

~~As soon as~~ (2) Any increase or reduction of the permanent 4331
assessment base with respect to an owner shall be made for the 4332
purpose of correcting an inequity that has arisen due to 4333
increase or decrease in the proportionate share of benefits 4334
accruing to the owner as the result of the construction and 4335
maintenance of the improvement. 4336

~~(3) If the board of county commissioners has changed~~ 4337
~~proposes changes to the permanent assessment base of maintenance~~ 4338
~~assessments of any an owner, the clerk board shall conduct a~~ 4339
hearing on those changes. The board shall conduct the hearing 4340
not less than twenty nor more than thirty days from the date the 4341
proposed changes are to be adopted. 4342

~~(4) The clerk of the board shall send to each owner in the~~ 4343
~~area benefited by the improvement a notice by certified mail,~~ 4344
~~return receipt requested, or by first-class mail in a five-day~~ 4345
~~return envelope. For each improvement, all individual notices~~ 4346
~~shall be sent by the same type of mail. Whichever method the~~ 4347
~~board chooses, with the words "Legal Notice" shall be printed in~~ 4348
~~plain view on the face of the envelope. The notice shall state~~ 4349
clerk shall include in the notice a statement of the amount of 4350
~~the present permanent assessment base for maintenance~~ 4351
~~assessment,~~ the proposed new permanent assessment base amount 4352
with respect to each owner so changed, and the date of a hearing 4353
on the change. ~~The hearing shall be set by the board for a date~~ 4354

~~not less than twenty nor more than thirty days from the date of
adoption of the changes.~~

(D) At the expiration of six years from the date of the
first review of the permanent assessment base of maintenance
~~assessments~~, and at six-year intervals thereafter, the board of
county commissioners ~~shall~~ may again review the permanent
assessment base and shall set a hearing on any proposed changes
~~by in accordance with the procedure provided procedures~~
~~established in division (C) of this section for the first such~~
~~review.~~

(E) The board of county commissioners at any time may add
to the schedule of benefited owners any other owner who, in the
judgment of the board, is benefited by the operation and
maintenance of the improvement as the result of new conditions
that have arisen since the improvement was constructed. The
~~additional clerk of the board shall provide such an owner shall~~
~~be given~~ notice in writing of ~~his~~ the owner's permanent
~~maintenance fund assessment base~~ and the date of a hearing ~~by~~
~~the same procedure as provided by in accordance with the~~
procedures established in division (C) of this section for any
owner whose permanent assessment base has been changed by the
board. Notice to ~~the additional such an~~ owner shall be sent by
the same type of mail as the board uses for owners whose
permanent assessment base has been changed.

~~The~~ (F) A hearing on the changes in, or additions to, the
permanent assessment base for maintenance assessment may be
adjourned from time to time by the board of county commissioners
and, upon conclusion of the hearing, the revised permanent
assessment base shall be certified to the county auditor and
shall become the permanent assessment base for maintenance

assessments, except as changed from time to time with respect to individual owners.

(G) If the board of county commissioners finds that any owner was not assessed for the construction of an improvement, but now is receiving substantial benefit therefrom, or was assessed for construction, but now is receiving substantially greater benefits therefrom, the board ~~may~~, after providing a thirty days day notice pursuant to section 6131.07 of the Revised Code, may hold a hearing and determine an equitable amount as an equalization assessment to be paid by the owner. The equalization assessment shall be divided into the same number of payments as the assessments for the construction of the improvement, and the payment shall be added to the next succeeding maintenance assessments of the owner until the entire amount of the equalization assessment has been paid.

(H) Any owner affected by an increase in the permanent assessment base as it applies to ~~him~~ the owner, or who has been added to the schedule of benefited owners, or who has been determined to be subject to an equalization assessment, all as provided in this section, may appeal to the court of common pleas from a final order made by the board of county commissioners, in the manner provided by sections 6131.25 to 6131.36 of the Revised Code, the question of whether any such assessment is levied according to benefits.

(I) In the case of drainage maintenance districts for which the board of county commissioners has authorized a single ~~drainage maintenance fund~~, a review of the permanent assessment ~~base of maintenance assessments~~ shall be made not later than six years after the creation of the drainage maintenance district, and at six-year intervals thereafter, by the same procedure as

provided by this section for review of the permanent assessment 4415
base with respect to a single improvement, and it shall not be 4416
necessary to review the entire ~~maintenance~~ permanent assessment 4417
base for any improvement included in the maintenance district 4418
until the board reviews the ~~maintenance~~ permanent assessment 4419
base for the entire district. 4420

Sec. 6137.111. (A) In lieu of the permanent assessment 4421
base and procedure specified in section 6137.11 of the Revised 4422
Code, the board of county commissioners may by resolution levy 4423
upon the benefited property assessments apportioned according to 4424
tax value. The assessments shall be in the amount determined by 4425
the board to be necessary to obtain funds for the ~~ditch~~ 4426
maintenance fund. 4427

(B) Prior to the adoption of ~~the~~ a resolution levying the 4428
assessments, the board shall give at least ten days' notice in 4429
one newspaper of general circulation in the county, which shall 4430
state the time and place when and where the resolution shall be 4431
taken up for consideration. At that time and place or at any 4432
adjournment thereof, of which no further published notice need 4433
be given, the board shall hear all persons whose properties are 4434
proposed to be assessed, shall correct any errors and make any 4435
revisions that appear to be necessary or just, and may then pass 4436
a resolution levying upon the properties determined to be 4437
benefited such assessments as so corrected and revised. 4438

(C) Any owner of property to be so assessed may appeal to 4439
the court of common pleas from the resolution made by the board 4440
of county commissioners, in the manner provided by sections 4441
6131.25 to 6131.36 of the Revised Code, the question of whether 4442
any such assessment is levied according to benefits. 4443

(D) The assessments levied by the board's resolution shall 4444

be certified to the county auditor for collection as other taxes 4445
in the year or years in which they are payable. Any increase or 4446
reduction of the assessments levied under this section shall be 4447
made at the regular six-year reappraisal of all property in the 4448
county under section 5713.01 of the Revised Code or through 4449
adjustments made for property divisions, improvements, and 4450
changes. 4451

Sec. 6137.112. (A) At the time that the board of county 4452
commissioners reviews the permanent assessment base of an 4453
improvement ~~for maintenance fund assessments~~ after six annual 4454
~~maintenance fund assessments~~ have been made as provided in 4455
section 6137.11 of the Revised Code, the board may request the 4456
county engineer to estimate the construction cost of the 4457
improvement if that improvement were to be constructed at the 4458
time of the permanent assessment base review. Not less than 4459
thirty days prior to a hearing at which the board will consider 4460
the estimate as the construction cost of the improvement, the 4461
clerk of the board shall send to each owner that would be 4462
affected a notice by certified mail, return receipt requested, 4463
or by first class mail in a five-day return envelope. For each 4464
improvement, all individual notices shall be sent by the same 4465
type of mail. Whichever method the board chooses, the words 4466
"legal notice" shall be printed in plain view on the face of the 4467
envelope. The notice shall state the amount of the present 4468
permanent assessment base ~~for maintenance assessment~~, the 4469
proposed new permanent assessment base amount with respect to 4470
the owner, and the date of the hearing on the proposed change. 4471

(B) The board of county commissioners, by adoption of a 4472
resolution at the hearing required under division (A) of this 4473
section, may approve the ~~estimate as the construction cost of~~ 4474
~~the improvement~~ permanent assessment base, as determined by the 4475

county engineer according to division (B) (5) of section 6131.14 4476
of the Revised Code in lieu of the original ~~construction~~-cost of 4477
the improvement. If approved, the ~~estimate~~-total estimated cost 4478
of ~~construction cost~~-the improvement shall be the permanent 4479
assessment base that is used to calculate maintenance fund 4480
assessments for owners benefiting from the improvement. The 4481
approved estimate of ~~construction cost~~-the improvement shall 4482
serve as the permanent assessment base for the purposes of this 4483
chapter until such time as it is revised in accordance with this 4484
section. 4485

Sec. 6137.12. (A) In the cleaning, repair, and other 4486
maintenance work on drainage improvements, the persons whose 4487
duty it is to perform the maintenance work may go upon the 4488
adjoining or abutting lands within the permanent easement 4489
necessary for proper operation of the required machinery, tools, 4490
motor vehicles, conveyances, or other equipment. 4491

(B) (1) In the case of open ditches, the permanent easement 4492
so used shall be not more than twenty-five feet from the top of 4493
the bank, measured at right angles thereto, and wherever 4494
practical the area so used shall be on one side of the ditch 4495
only. ~~When in his opinion~~ 4496

(2) In the case of an open ditch log-jam removal project 4497
within a wooded riparian corridor, a maintenance easement may be 4498
created from the top of the bank to twenty-five feet outside of 4499
the edge of the wooded riparian corridor. 4500

(3) When the county engineer determines that an emergency 4501
situation exists at an open ditch needing maintenance, the 4502
county engineer may, with the approval of the board of county 4503
commissioners, temporarily extend the easement to not more than 4504
seventy-five feet from the top of the bank, measured at right 4505

angles thereto, in order to conduct the necessary maintenance 4506
work and alleviate the condition or conditions causing the 4507
emergency situation. ~~The~~ 4508

(C) The maximum width of permanent easement for closed 4509
ditches shall not exceed eighty feet centered on the centerline 4510
of the improvement. ~~The~~ 4511

(D) The permanent easement for all other improvements 4512
shall be as located and the width as specified by the county 4513
engineer. ~~When~~ 4514

(E) When the performance of maintenance requires the 4515
damage of existing crops beyond the permanently established sod 4516
or seeded strip, the owner of the crops shall ~~be granted~~ submit 4517
a written request for payment for damages to the county 4518
engineer. The county engineer shall award the crop owner damages 4519
equal to market value, to be paid from the permanent maintenance 4520
fund established for the improvement. ~~Under~~ 4521

(F) (1) Under contract work, the county engineer may 4522
specify the right-of-way to be used within the permanent 4523
easement. Where the nature of the surface of the adjoining or 4524
abutting land does not prevent it, and there are growing crops 4525
on one side of the ditch but none upon the other, the right-of- 4526
way provided for shall be used on that side of the ditch on 4527
which there are no growing crops. ~~In~~ 4528

(2) In using the right-of-way, the persons performing 4529
maintenance shall, as far as possible, avoid damage to the owner 4530
of the adjoining or abutting lands. 4531

(3) If in the doing of this work it is necessary to damage 4532
or temporarily remove any fences, poles, or wire lines, the cost 4533
of repairing, removing, and replacing the fences, poles, and 4534

wire lines shall be included in the total cost of the 4535
maintenance. 4536

(G) This section does not authorize passage across, along, 4537
or between railroad tracks until thirty days after notice has 4538
been mailed in accordance with section 6131.07 of the Revised 4539
Code. 4540

Sec. 6137.13. That part of interstate ~~ditches~~ drainage 4541
improvements within the state may be cleaned or repaired 4542
pursuant to sections 6137.01 to 6137.12, ~~inclusive,~~ of the 4543
Revised Code. ~~Such sections shall apply insofar as they are~~ 4544
~~applicable.~~ 4545

Sec. 6137.14. The county engineer, in inspecting drainage 4546
channels, shall note any and all apparent violations of sections 4547
6111.01 to 6111.04 of the Revised Code, as such sections refer 4548
to the pollution of drainage channels. Whenever it appears to 4549
the county engineer, ~~after investigation,~~ that there ~~has been~~ 4550
may be a violation of section 6111.04 of the Revised Code, the 4551
county engineer shall ~~give written notice to notify~~ the county 4552
board of health, setting forth any thing or act done or omitted 4553
to be done or claimed to be in violation of such section. The 4554
county board of health shall immediately pursue the alleged 4555
violation to its legal conclusion. 4556

Section 2. That existing sections 305.31, 940.01, 940.02, 4557
940.05, 940.06, 940.07, 940.08, 940.10, 940.11, 940.12, 940.13, 4558
940.19, 940.20, 940.21, 940.22, 940.23, 940.26, 940.29, 940.31, 4559
940.32, 940.33, 940.34, 940.35, 6131.01, 6131.04, 6131.05, 4560
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6131.32, 6131.33, 6131.34, 6131.36, 6131.42, 6131.43, 6131.47, 4564

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6133.14, 6137.01, 6137.02, 6137.03, 6137.04, 6137.05, 6137.051, 4568
6137.06, 6137.07, 6137.08, 6137.09, 6137.10, 6137.11, 6137.111, 4569
6137.112, 6137.12, 6137.13, and 6137.14 of the Revised Code are 4570
hereby repealed. 4571

Section 3. That sections 940.18, 940.24, 940.25, 940.26, 4572
940.27, 940.28, 940.29, 940.30, 6131.18, 6131.26, 6131.29, 4573
6131.35, 6131.44, 6131.48, 6131.49, 6131.56, and 6131.62 of the 4574
Revised Code are hereby repealed. 4575

Section 4. A petition filed under section 6133.02 of the 4576
Revised Code pending approval by a joint county board of county 4577
commissioners on the effective date of this section is subject 4578
to the provisions of Chapter 6133. of the Revised Code that 4579
existed prior to the effective date of this section and shall be 4580
considered by the joint county board of county commissioners 4581
that existed prior to the effective date. Any petition filed 4582
under section 6133.02 of the Revised Code after the effective 4583
date of this section is subject to Chapter 6133. of the Revised 4584
Code as amended by this act. 4585