

As Passed by the House

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 340

Representative Cupp

Cosponsors: Representatives Hambley, Patterson, Manning, G., Riedel, Seitz, Blair, Ginter, Antani, Carfagna, Carruthers, Clites, Cross, Fraizer, Galonski, Green, Grendell, Hicks-Hudson, Jones, Lanese, LaRe, McClain, Miller, J., Patton, Perales, Reineke, Richardson, Rogers, Russo, Sheehy, Stein, Stephens, West, Wiggam

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 170
of the appraisal. 171

(I) "Varied assessment" means any assessment that does not 172
meet the criteria established in division (H) of this section. 173

(J) ~~"Project area" means an area determined and certified-~~ 174
~~by the supervisors of a soil and water conservation district-~~ 175
~~under section 940.25 of the Revised Code.~~ 176

~~(K)~~ "Benefit" or "benefits" means advantages to land and 177
owners, to public corporations, and to the state resulting from 178
drainage, conservation, control, and management of water and 179
from environmental, wildlife, and recreational improvements. 180
"Benefit" or "benefits" includes, but is not limited to, any of 181
the following factors: 182

(1) Elimination or reduction of damage from flooding; 183

(2) Removal of water conditions that jeopardize public 184
health, safety, or welfare; 185

(3) Increased value of land resulting from an improvement; 186

(4) Use of water for irrigation, storage, regulation of 187
stream flow, soil conservation, water supply, or any other 188
incidental purpose; 189

(5) Providing an outlet for the accelerated runoff from 190
artificial drainage if a stream, watercourse, channel, or ditch 191
that is under improvement is called upon to discharge functions 192
for which it was not designed. Uplands that have been removed 193
from their natural state by deforestation, cultivation, 194
artificial drainage, urban development, or other human methods 195

shall be considered to be benefited by an improvement that is 196
required to dispose of the accelerated flow of water from the 197
uplands. 198

~~(I)~~ (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 <u>board of</u> supervisors of soil and	287
water conservation districts informed of their <u>its</u> 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 bidder~~r~~. 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 use⁷ⁱ 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 limit or limits; 752
753

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

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

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

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

(E) If the fiscal agent retains general possession and control of the credit card account and presentation instruments related to the account including cards and checks, and the ~~supervisors board~~ authorize a ~~supervisor board member~~ or employee to use a credit card, the fiscal agent may use a system to sign out credit cards to the authorized users. The ~~supervisor board member~~ or employee is liable in person and upon any official bond the ~~supervisor member~~ or employee has given to the 773
774
775
776
777
778
779
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 receipt of such a petition, the supervisors shall make a preliminary determination to accept or reject the petition.~~

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

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

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

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

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

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

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

(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 872
petition contains about the proposed improvement is insufficient 873
to enable the ~~supervisors board~~ to proceed with the petition 874
under this chapter ~~or if the~~. 875

(b) The petition appears to be frivolous. ~~The supervisors~~ 876
also may reject a petition on the grounds that the 877

(c) The district lacks sufficient staff or other resources 878
to proceed with the improvement in accordance with this chapter. 879
~~If~~ 880

(2) If the ~~supervisors reject a~~ board rejects the 881
petition, ~~they~~ it shall notify the petitioner in writing of the 882
reasons for the rejection. ~~A~~ The petitioner may amend a petition 883
that ~~was~~ is rejected due to insufficient information ~~may be~~ 884
~~supplemented with additional information and filed again~~ may 885
~~subsequently file the amended petition with the board.~~ 886

(E) If the ~~supervisors accept a~~ board accepts the petition 887
for a proposed improvement, ~~they~~ the board shall establish do 888
~~both of the following:~~ 889

(1) Establish a date and time for a view of the proposed 890
improvement, ~~which~~. The date shall be not fewer than ~~twenty~~ 891
~~five~~ thirty nor more than ninety days after the date on which 892
the petition was ~~filed~~ accepted. The ~~supervisors board~~ shall 893
designate a convenient ~~place near the proposed improvement~~ 894
~~location~~ at which the view shall ~~start~~ occur. 895

~~Upon receipt of a petition, the supervisors also shall~~ 896
~~establish~~ (2) Establish a date and time on and at which and 897
designate a location at which ~~they~~ the board will hold a hearing 898

on the proposed improvement. The hearing shall occur not ~~later-~~ 899
fewer than thirty nor more than ninety days after the date 900
established for the view. 901

(F) If a petitioner proposes an improvement that would be 902
located in two or more adjoining soil and water conservation 903
districts, the board of supervisors that receives the petition 904
shall provide notice of the petition to the board of supervisors 905
of each other county in which the proposed improvement would be 906
located. The boards then shall create a joint board of 907
supervisors under section 940.34 of the Revised Code and proceed 908
in accordance with that section. 909

Sec. 940.20. ~~As soon as the supervisors of a soil and-~~ 910
~~water conservation district have established the dates, times,~~ 911
~~and locations of the view and the hearing concerning a proposed-~~ 912
~~improvement, they shall send, at (A) At least twenty-twenty-one~~ 913
days prior to the date established for the view, the board of 914
supervisors of a soil and water conservation district shall send 915
a written notice of the view and the hearing to ~~the all~~ 916
landowners within the area to be benefited by the proposed 917
improvement and to the board of county commissioners and the 918
county engineer. The board shall ensure that the notice contains 919
all of the following: 920

(1) The date, time, and location for the view and the 921
subsequent hearing; 922

(2) A description of the proposed improvement and its 923
location as stated in the petition, a map indicating the 924
location of the proposed improvement or information on where to 925
access the map, and an explanation of how to obtain additional 926
information or ask questions about the proposed improvement; 927

(3) A statement that all costs of engineering, 928
construction, and future maintenance will be assessed to the 929
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 959
Code. 960

Sec. 940.21. (A) On the date established for the view of a 961
proposed improvement, the board of supervisors of a soil and 962
water conservation district or its designee shall meet at the 963
~~designated location near the proposed improvement at the~~ 964
~~established time. At that time, they shall hear proof of the~~ 965
~~need for the proposed improvement offered by any landowner that~~ 966
~~is affected by it.~~ 967

~~The supervisors shall view the area in which the proposed~~ 968
~~improvement is to be constructed. If the proposed improvement is~~ 969
~~a ditch, the view shall include the line of the proposed ditch~~ 970
~~and each branch, lateral, or spur of the ditch that is mentioned~~ 971
~~in the petition. If present an overview of the proposed~~ 972
improvement. In the presentation, the board or its designee 973
shall use methods and means that the board determines will 974
adequately inform those attending the view about the proposed 975
improvement's location and the drainage issues intended to be 976
addressed by the proposed improvement. 977

(B) Upon the request made at the view of a member of the 978
board or of a landowner in the area to be benefited by the 979
proposed improvement, the board or its designee shall recess the 980
view and reconvene at a site along the proposed improvement for 981
the purpose of gaining additional information about the drainage 982
issue intended to be addressed by the proposed improvement. If 983
the area to be viewed is extensive, the ~~supervisors~~ board or its 984
designee may conduct the view on more than one day and may 985
adjourn from day to day, or a longer period, until the view is 986

completed. 987

Sec. 940.22. (A) Upon acceptance of a petition requesting 988
the construction of an improvement, the board of supervisors of 989
a soil and water conservation district shall begin to prepare, ~~7-~~ 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;~~ 1075

(B) Dimensions of any temporary easement that is necessary 1076
~~for construction purposes. In addition, the supervisors or their~~ 1077
~~designee shall make estimates of the cost of material and any~~ 1078
~~excavation costs. The construction of the improvement may be~~ 1079
~~divided into construction areas if that would be expedient.;~~ 1080

(C) In the case of an improvement that is a ditch or 1081
~~similar structure for the disposal of water, the specifications~~ 1082
~~for its construction that the supervisors or their designee must~~ 1083
~~prepare shall provide for spreading provisions for all of the~~ 1084
following: 1085

(1) Spreading and leveling of spoil banks and shall 1086
~~provide for erosion;~~ 1087

(2) Erosion and sediment control through the establishment 1088
~~of a sod or seeded strip or other such controls if suitable~~ 1089
vegetative cover is not present. With regard to sod or seeded 1090
strips, the board shall ensure that the plan provides that such 1091
strips will be not fewer than four ten feet nor more than 1092
~~fifteen feet wide, measured at right angles to the top of the~~ 1093
~~ditch bank on both sides of the ditch, except where suitable~~ 1094
~~vegetative cover exists. The strip Sod or seeded strips or other~~ 1095
~~such controls shall be are considered to be part of the~~ 1096
~~permanent improvement. Sod The board or its designee shall~~ 1097
report to the county auditor the total acreage of sod or seeded 1098
strips or other such controls that are established and 1099
~~maintained in excess of four feet shall be compensated for by~~ 1100

~~their removal~~ accordance with this chapter. The county auditor 1101
shall remove the total acreage of sod or seeded strips or other 1102
such controls from the taxable valuation of the property of 1103
which they are a part. 1104

~~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 and addresses from the tax 1159
duplicates of the county. The board shall obtain the 1160
descriptions from the county recorder's office. For purposes of 1161
the description the county recorder shall not require a metes 1162
and bounds survey. 1163

(B) In determining the estimated assessment on a parcel of 1164
land, the board or its designee shall do both of the following: 1165

(1) Use the information compiled in accordance with 1166
sections 940.24 to 940.26 of the Revised Code; 1167

(2) Consider, and incorporate when applicable, the 1168
following factors in the calculations: 1169

(a) Acreage of the parcel; 1170

(b) Volume of water produced by the parcel; 1171

(c) Distance of the parcel from the proposed improvement; 1172

(d) Percentage of the proposed improvement to be used by 1173
the parcel; 1174

(e) The construction of works that are determined to 1175
solely benefit the particular parcel; 1176

(f) Soil types of the parcel; 1177

(g) The county auditor's land value or current 1178
agricultural use value, if applicable, of the parcel; 1179

(h) Existing drainage infrastructure that can be 1180
incorporated into the proposed improvement and associated cost 1181
savings; 1182

(i) Any other factors pertinent to the proposed 1183
improvement and the watershed that will be affected by the 1184
proposed improvement; 1185

(j) Any benefits as defined in section 6131.01 of the 1186
Revised Code. 1187

(C) Unless the board determines for good cause that a 1188
lower amount is appropriate, the board shall not establish an 1189
estimated assessment for a parcel of land in an amount less than 1190
twenty-five dollars, including the cost of preparing and mailing 1191
the notice required under section 940.32 of the Revised Code. If 1192
a dwelling is located on a lot that comprises two or more 1193
contiguous parcels of land, the board may establish an estimated 1194
assessment of not less than twenty-five dollars for all of the 1195
parcels, including the cost of preparing and mailing the notice 1196
required under section 940.32 of the Revised Code. 1197

(D) The board shall ensure that the total of the estimated 1198
assessments, including the total estimated assessments allocated 1199
to public corporations and the state, is not greater than the 1200
estimated cost of the proposed improvement. 1201

Sec. 940.28. After a board of supervisors of a soil and 1202
water conservation district completes the schedule of estimated 1203
assessments, the board shall submit the petition, preliminary 1204
report, surveys, plans, specifications, schedule of damages, 1205
cost estimates, estimated assessments, and any other information 1206
obtained or prepared for the petition to the board of county 1207
commissioners of the county in which the proposed improvement is 1208
to be located. 1209

Sec. 940.29. (A) Upon receiving the information submitted 1210
by a board of supervisors of a soil and water conservation 1211
district under section 940.28 of the Revised Code, the board of 1212
county commissioners shall establish the date, time, and 1213
location of a hearing regarding the proposed improvement. 1214

(B) At least twenty-one days prior to the date established 1215
for the hearing, the clerk of the board of county commissioners 1216
shall send a written notice of the hearing by certified mail to 1217
all landowners that are adjacent to the proposed improvement. 1218
The clerk shall send such notice by certified or first class 1219
mail to all other landowners within the area to be benefited by 1220
the proposed improvement, the board of supervisors of the 1221
applicable soil and water conservation district, and the county 1222
engineer. The clerk shall include all of the following in the 1223
notice: 1224

(1) The date, time, and location of the hearing; 1225

(2) A description of any easement on the landowner's 1226
property that is necessary for purposes of the improvement; 1227

(3) A landowner's estimated assessment; 1228

(4) A statement that a landowner may file comments on the 1229
proposed improvement and exceptions to the estimated assessment 1230
in writing before the hearing or in person at the hearing; 1231

(5) The address at which to submit written comments on the 1232
proposed improvement and exceptions to the estimated assessment. 1233

(C) The clerk shall include printed words in plain view on 1234
the envelope containing the notice that read "Legal Notice of 1235
Proposed Drainage Improvement." 1236

Sec. 940.30. (A) On the date established for the hearing, 1237
the board of county commissioners shall conduct the hearing by 1238
doing both of the following: 1239

(1) Presenting the project design, construction plans, 1240
schedule of damages, cost estimates, and estimated assessments 1241
for the proposed improvement as submitted by the board of 1242

supervisors of the applicable soil and water conservation 1243

district; 1244

(2) Hear any comments offered by any landowner regarding 1245

the estimated assessments and proposed improvement. 1246

(B) If necessary, the board of county commissioners may 1247

adjourn and continue the hearing on subsequent days as may be 1248

reasonable to consider additional information about the proposed 1249

improvement, make changes that will better accomplish the 1250

purpose and object of the proposed improvement, or allow all 1251

interested landowners to have an opportunity to comment on the 1252

proposed improvement. 1253

~~Sec. 940.29 940.31. Upon receipt of a certification under~~ 1254

~~section 940.25 of the Revised Code, the board of county~~ 1255

~~commissioners shall, within sixty days, approve or disapprove~~ 1256

~~construction of the improvement. If a board disapproves~~ 1257

~~construction of the improvement, the supervisors may revise the~~ 1258

~~plan for the improvement and again proceed under section 940.25~~ 1259

~~of the Revised Code. If the board of county commissioners of~~ 1260

~~each county containing any of the territory included in the~~ 1261

~~project area approves construction of the improvement, the~~ 1262

~~board, or if there is more than one such county, the joint board~~ 1263

~~formed under section 940.31 of the Revised Code, has in addition~~ 1264

~~to its other powers, the powers of a soil and water conservation~~ 1265

~~district granted by division (C) of section 940.06 of the~~ 1266

~~Revised Code.~~ 1267

~~When considering whether to approve or disapprove~~ 1268

~~construction of an improvement, the board shall consider all of~~ 1269

~~the following factors:~~ 1270

~~(A) The cost of location and construction;~~ 1271

(B) The compensation for land or other property that must	1272
be taken;	1273
(C) The benefits to the public welfare;	1274
(D) The benefits to land, public corporations, and the	1275
state needing the improvement;	1276
(E) In the case of an improvement involving the drainage	1277
of water, the effect on land below the improvement that may be	1278
caused by constructing the improvement and the sufficiency or	1279
insufficiency of the outlet that receives flow from the	1280
improvement;	1281
(F) Any other proper matter that will assist the board in	1282
approving or disapproving construction of the improvement.	1283
<u>(A) At the conclusion of the hearing conducted under</u>	1284
<u>section 940.30 of the Revised Code, the board of county</u>	1285
<u>commissioners shall vote to approve or dismiss the petition.</u>	1286
<u>(B) The board may approve the petition if the board is</u>	1287
<u>reasonably certain that:</u>	1288
<u>(1) The benefits of the proposed improvement outweigh the</u>	1289
<u>costs.</u>	1290
<u>(2) The proposed improvement is necessary.</u>	1291
<u>(3) The proposed improvement will be conducive to the</u>	1292
<u>public welfare.</u>	1293
<u>(4) The proposed route and mode of construction of the</u>	1294
<u>improvement will improve water management and development in the</u>	1295
<u>county in which the district is located to the advantage of</u>	1296
<u>lands located in it.</u>	1297
<u>(5) The proposed improvement will aid lands in the area by</u>	1298

promoting the economic, environmental, or social development of 1299
the area. 1300

(C) When, in the opinion of the board of county 1301
commissioners, it is necessary for the board to acquire real 1302
property or a right-of-way or other easement for a ~~conservation~~ 1303
~~works of an~~ improvement project under this chapter, the board 1304
may make the acquisition through purchase or voluntary transfer, 1305
or the board may appropriate the real property or right-of-way 1306
or other easement in accordance with sections 163.01 to 163.62 1307
of the Revised Code. 1308

(D) If the board approves ~~construction of the a~~ petition 1309
for an improvement, the county engineer shall file with the 1310
county recorder ~~a~~ all of the following: 1311

(1) A property plat showing the ~~general~~ landowners of 1312
record and parcel numbers along the improvement; 1313

(2) The location of the improvement ~~and a statement~~ 1314
describing the dimensions; 1315

(3) The width of any permanent easement that is necessary 1316
for maintenance of the improvement granted in section 6137.12 of 1317
the Revised Code; 1318

(4) An affidavit listing the landowners of record, 1319
complete property descriptions, and parcel numbers subject to 1320
the permanent easement. The county engineer shall note the 1321
property plat in the affidavit. 1322

The county engineer shall include the permanent easement 1323
in the county's geographic information systems or other mapping 1324
system, if available. In 1325

In the case of an improvement that is an open ditch, 1326

provisions that govern the permanent easement for maintenance of 1327
the ditch that are established in section 6137.12 of the Revised 1328
Code ~~shall~~ apply. 1329

(E) A board of county commissioners shall follow 1330
competitive bidding requirements in sections 307.86 to 307.91 of 1331
the Revised Code, except that in constructing an improvement. 1332
However, the board may designate the board of supervisors of a 1333
soil and water conservation district as the contracting agency 1334
and it. The board of supervisors shall follow division (H) of 1335
section 940.06 of the Revised Code, ~~or except that if.~~ If the 1336
improvement is being undertaken through the joint efforts and 1337
cooperation of the board of county commissioners or board of 1338
supervisors and another state or federal agency, and if the 1339
state or federal regulations or procedures are in conflict with 1340
those sections with respect to the procedures for the preparing 1341
of contracts, the issuing of bids, the making of awards, and 1342
generally the administering of the contracts, the board of 1343
county commissioners or board of supervisors may adopt the state 1344
or federal regulations or procedures in those areas where 1345
conflict exists and proceed with the improvement in accordance 1346
with the requirements of the state or federal regulations or 1347
procedures. 1348

(F) If a board of county commissioners does not approve a 1349
petition for a proposed improvement, the applicable board of 1350
supervisors may revise the proposed improvement and submit the 1351
revision to the board of county commissioners for 1352
reconsideration of the petition. 1353

~~Sec. 940.33~~ 940.32. (A) ~~Following receipt of a~~ 1354
~~certification made by the supervisors of a soil and water~~ 1355
~~conservation district pursuant to section 940.25 of the Revised~~ 1356

~~Code together with receipt of all plans, specifications, and~~ 1357
~~estimates submitted under that section and upon completion of a~~ 1358
~~schedule of estimated assessments in accordance with section~~ 1359
~~940.30 of the Revised Code, If the board of county commissioners~~ 1360
~~may approves a petition under section 940.31 of the Revised~~ 1361
~~Code, the board shall adopt a resolution levying upon the~~ 1362
~~property within the project area an to be benefited by an~~ 1363
~~improvement a uniform or varied assessment at a uniform or~~ 1364
~~varied rate based upon the benefit to the area certified by the~~ 1365
~~supervisors, as necessary to pay the cost of construction of the~~ 1366
~~improvement not otherwise funded and to repay advances made for~~ 1367
~~purposes of the improvement from the fund created by section~~ 1368
~~940.16 of the Revised Code. In adopting the resolution, the~~ 1369
~~board shall take into consideration the estimated assessments~~ 1370
~~prepared by the board of supervisors of the soil and water~~ 1371
~~conservation district under section 940.27 of the Revised Code.~~ 1372
~~The board of county commissioners shall direct the person or~~ 1373
~~authority preparing assessments to give primary consideration,~~ 1374
~~in determining a parcel's estimated assessments relating to the~~ 1375
~~disposal of water, to the potential increase in productivity~~ 1376
~~that the parcel may experience as a result of the improvement~~ 1377
~~and also to give consideration to the amount of water disposed~~ 1378
~~of, the location of the property relative to the project, the~~ 1379
~~value of the project to the watershed, and benefits. The part of~~ 1380
~~the assessment that is found to benefit state, county, or~~ 1381
~~township roads or highways or municipal streets shall be~~ 1382
~~assessed against the state, county, township, or municipal~~ 1383
~~corporation, respectively, payable from motor vehicle revenues.~~ 1384
~~The part of the assessment that is found to benefit property~~ 1385
~~owned by any public corporation, any political subdivision of~~ 1386
~~the state, or the state shall be assessed against the public~~ 1387
~~corporation, the political subdivision, or the state and shall~~ 1388

~~be paid out of the general funds or motor vehicle revenues of~~ 1389
~~the public corporation, the political subdivision of the state,~~ 1390
~~or the state, except as otherwise provided by law.~~ 1391

~~(B) The assessment shall be certified to the county~~ 1392
~~auditor and by the county auditor to the county treasurer. The~~ 1393
~~collection of the assessment shall conform in all matters to~~ 1394
~~Chapter 323. of the Revised Code.~~ 1395

~~(C) Any land owned and managed by the department of~~ 1396
~~natural resources for wildlife, recreation, nature preserve, or~~ 1397
~~forestry purposes is exempt from assessments if the director of~~ 1398
~~natural resources determines that the land derives no benefit~~ 1399
~~from the improvement. In making such a determination, the~~ 1400
~~director shall consider the purposes for which the land is owned~~ 1401
~~and managed and any relevant articles of dedication or existing~~ 1402
~~management plans for the land. If the director determines that~~ 1403
~~the land derives no benefit from the improvement, the director~~ 1404
~~shall notify the board of county commissioners, within thirty~~ 1405
~~days after receiving the assessment notification required by~~ 1406
~~this section, indicating that the director has determined that~~ 1407
~~the land is to be exempt and explaining the specific reason for~~ 1408
~~making this determination. The board of county commissioners,~~ 1409
~~within thirty days after receiving the director's exemption~~ 1410
~~notification, may appeal the determination to the court of~~ 1411
~~common pleas. If the court of common pleas finds in favor of the~~ 1412
~~board of county commissioners, the department of natural~~ 1413
~~resources shall pay all court costs and legal fees.~~ 1414

~~(D) (1) (B)~~ The board of county commissioners shall give 1415
notice by first class mail to every public and private property 1416
owner whose property is subject to assessment, at the tax 1417
mailing or other known address of the owner. The notice shall 1418

contain ~~a~~ all of the following: 1419

(1) A statement of the amount to be assessed against the 1420
property of the addressee, ~~a;~~ 1421

(2) A description of the method used to determine the 1422
necessity for and the amount of the proposed assessment, ~~a;~~ 1423

(3) A description of any easement on the property that is 1424
necessary for purposes of the improvement, ~~and a statement that~~ 1425
~~the addressee may file an objection in writing at the office of~~ 1426
~~the board of county commissioners within thirty days after the~~ 1427
~~mailing of notice. If;~~ 1428

(4) A statement that an owner may file written exceptions 1429
to the amount of the assessments with the clerk of the board of 1430
county commissioners within thirty days of the date of the 1431
notice. 1432

(C) If the residence of any owner cannot be ascertained, 1433
or if any mailed notice is returned undelivered, the board shall 1434
publish the notice to all such owners in a newspaper of general 1435
circulation within the project area to be benefited by the 1436
improvement, once each week for three weeks or as provided in 1437
section 7.16 of the Revised Code. The notice shall include the 1438
information contained in the mailed notice, ~~but shall state that~~ 1439
~~the owner may file an objection in writing at the office of the~~ 1440
~~board of county commissioners within thirty days after the last~~ 1441
~~publication of the notice.~~ 1442

~~(2) Upon receipt of objections as provided in this~~ 1443
~~section, the board shall proceed within thirty days to hold a~~ 1444
~~final hearing on the objections by fixing a date and giving~~ 1445
~~notice by first class mail to the objectors at the address~~ 1446
~~provided in filing the objection. If any mailed notice is~~ 1447

~~returned undelivered, the board shall give due notice to the~~ 1448
~~objectors in a newspaper of general circulation in the project~~ 1449
~~area or as provided in section 7.16 of the Revised Code, stating~~ 1450
~~the time, place, and purpose of the hearing. Upon hearing the~~ 1451
~~objectors, the board may adopt a resolution amending and~~ 1452
~~approving the final schedule of assessments and shall enter it~~ 1453
~~in the journal.~~ 1454

~~(3) Any owner whose objection is not allowed may appeal~~ 1455
~~within thirty days to the court of common pleas of the county in~~ 1456
~~which the property is located.~~ 1457

~~(4) The board of county commissioners shall make an order~~ 1458
~~approving the levying of the assessment and shall proceed under~~ 1459
~~section 6131.23 of the Revised Code after one of the following~~ 1460
~~has occurred, as applicable:~~ 1461

~~(a) Final notice is provided by mail or publication.~~ 1462

~~(b) The imposition of assessments is upheld in the final~~ 1463
~~disposition of an appeal that is filed pursuant to division (D)~~ 1464
~~(3) of this section.~~ 1465

~~(c) The resolution levying the assessments is approved in~~ 1466
~~a referendum that is held pursuant to section 305.31 of the~~ 1467
~~Revised Code.~~ 1468

~~(5) The (D) If an owner files an exception to the~~ 1469
~~estimated assessment, the board, within thirty days of the date~~ 1470
~~of the filing, shall establish a date and time for hearing the~~ 1471
~~exception to the estimated assessments. The board may hear each~~ 1472
~~owner's exception in an individual hearing or hear all~~ 1473
~~exceptions in a single hearing. Not less than fourteen days~~ 1474
~~prior to the hearing date, the clerk of the board shall notify~~ 1475
~~each owner who filed an exception of the date and time of the~~ 1476

owner's exception hearing. Upon hearing the objector's 1477
exceptions, the board may adopt a resolution amending and 1478
approving the final schedule of estimated assessments and shall 1479
enter it in the journal. 1480

If the board amends the final schedule of estimated 1481
assessments after hearing exceptions, the clerk of the board 1482
shall send by certified or first class mail a written notice of 1483
the revised final schedule of estimated assessments to all 1484
owners within the area to be benefited by the improvement. The 1485
notice shall contain both of the following: 1486

(1) The amount of the final estimated assessment for the 1487
owner's property; 1488

(2) A statement that an owner may appeal the final 1489
estimated assessment to the applicable court of common pleas 1490
pursuant to section 940.38 of the Revised Code within twenty-one 1491
days of the notice of final estimated assessment. 1492

(E) The board shall certify the schedule of final 1493
estimated assessments to the county auditor, who shall certify 1494
the assessments to the county treasurer. The collection of the 1495
assessments shall be made in accordance with Chapter 323. of the 1496
Revised Code. 1497

(F) The county treasurer shall deposit the proceeds of the 1498
assessment in the fund designated by the board and shall report 1499
to the county auditor the amount of money from the assessment 1500
that is collected by the treasurer. Moneys shall be expended 1501
from the fund for purposes of the improvement. 1502

~~(E)~~-(G) Any moneys collected in excess of the amount 1503
needed for construction of the improvement and the subsequent 1504
first year's maintenance may be maintained in a fund to be used 1505

for maintenance of the improvement. In any year subsequent to a 1506
year in which an assessment for construction of an improvement 1507
levied under this section has been collected, and upon 1508
determination by the board of county commissioners that funds 1509
are not otherwise available for maintenance or repair of the 1510
improvement, the board shall levy on the property within the 1511
~~project~~ area to be benefited by the improvement an assessment 1512
for maintenance at a uniform percentage of all construction 1513
costs based upon the assessment schedule used in determining the 1514
construction assessment. The assessment is not subject to the 1515
provisions concerning notice and petition contained in this 1516
section. An assessment for maintenance shall not be levied in 1517
any year in which the unencumbered balance of funds available 1518
for maintenance of the improvement exceeds twenty per cent of 1519
the cost of construction of the improvement, except that the 1520
board may adjust the level of assessment within the twenty per 1521
cent limitation, or suspend temporarily the levying of an 1522
assessment, for maintenance purposes as maintenance funds are 1523
needed. 1524

(H) For the purpose of levying an assessment for 1525
maintenance of an improvement, a board may use the procedures 1526
established in Chapter 6137. of the Revised Code regarding 1527
maintenance of improvements as defined in section 6131.01 of the 1528
Revised Code in lieu of using the procedures established under 1529
this section. 1530

~~(F)~~ (J) The board of county commissioners may issue bonds 1531
and notes as authorized by section 131.23 or 133.17 of the 1532
Revised Code. 1533

Sec. ~~940.34940.33.~~ (A) A board of county commissioners may 1534
declare by resolution that it is necessary to levy a tax upon 1535

the property within the ~~project~~ area to be benefited by an 1536
improvement in order to pay the costs of the improvement not 1537
otherwise funded. 1538

~~Such~~ The resolution shall specify ~~the~~ all of the 1539
following: 1540

(1) The rate that it is necessary to levy, ~~the purpose~~ 1541
~~thereof, and the;~~ 1542

(2) The purpose of the tax levy; 1543

(3) The number of years during which ~~such~~ the increase 1544
~~shall be~~ is in effect, which ~~levy~~ may include a ~~levy upon the~~ 1545
~~duplicate of~~ the current year. 1546

(B) A copy of the resolution shall be certified to the 1547
board of elections for the county not less than ninety days 1548
before the general election in any year and the board shall 1549
submit the proposal to the electors within the ~~project~~ area to 1550
be benefited by an improvement at the succeeding November 1551
election in accordance with section 5705.25 of the Revised Code. 1552
For purposes of that section, the subdivision is the ~~project~~ 1553
area to be benefited by an improvement. 1554

(C) If the per cent required for approval of a levy as set 1555
forth in section 5705.26 of the Revised Code vote in favor 1556
thereof, the board of county commissioners may levy a tax within 1557
the ~~project~~ area to be benefited by an improvement, outside the 1558
ten-mill limitation, during the period and for the purpose 1559
stated in the resolution, or at any less rate or for any less 1560
number of years. 1561

(D) The board may issue bonds and notes in anticipation of 1562
the collection of taxes levied under this section, and notes in 1563
anticipation of the issuance of bonds. 1564

Sec. 940.34. (A) Upon receiving a petition pursuant to 1565
section 940.19 of the Revised Code for a proposed improvement 1566
that would be located in two or more adjoining soil and water 1567
conservation districts, the board of supervisors of the 1568
adjoining districts shall, with approval of the Ohio soil and 1569
water conservation commission, create a joint board of 1570
supervisors. Each district shall have the same number of 1571
supervisors on the joint board. However, if the membership of 1572
the joint board would be an even number, an additional 1573
supervisor from the lead county shall be designated. 1574

(B) A joint board of supervisors shall exercise the same 1575
powers, execute the same duties, and follow the same procedures 1576
in connection with an improvement under this chapter as the 1577
board of supervisors of a single soil and water conservation 1578
district with the following conditions: 1579

(1) For purposes of making a preliminary determination to 1580
accept or reject a petition in accordance with section 940.19 of 1581
the Revised Code, the joint board shall make the determination 1582
within sixty days of the approval of the creation of the joint 1583
board. 1584

(2) For purposes of a petition, the joint board shall do 1585
both of the following: 1586

(a) Send the petition and accompanying information to the 1587
board of county commissioners of the lead county; and 1588

(b) Send notification of the need for the creation of a 1589
joint board of county commissioners under section 940.35 of the 1590
Revised Code to the board of county commissioners of each county 1591
in the area to be benefited by the proposed improvement. 1592

(C) Upon the creation of a joint board of supervisors, the 1593

electd officials in the lead county, including the engineer, 1594
recorder, auditor, prosecutor, treasurer, judges, and clerk of 1595
the board of county commissioners, shall serve as the 1596
administrative officers for the joint board of supervisors. 1597

~~Sec. 940.31~~ 940.35. ~~The boards of county commissioners of-~~ 1598
~~all the counties containing any of the territory included in the~~ 1599
~~project area, if all such counties have approved construction of-~~ 1600
~~an improvement under section 940.29 of the Revised Code, are a~~ 1601
~~joint board of county commissioners for the improvement.~~ (A) If 1602
a proposed improvement would affect more than one county, the 1603
board of county commissioners from each of the counties that 1604
would be affected by the proposed improvement shall meet on a 1605
date fixed by the clerk of the board of county commissioners of 1606
the lead county. The boards shall meet in the lead county to 1607
organize a joint board of county commissioners and elect a 1608
president, which shall be the first order of business at the 1609
hearing. 1610

(B) A joint board of county commissioners may do all the 1611
things that a board of county commissioners may do in connection- 1612
with the improvement and shall proceed as if it were a board of- 1613
county commissioners representing a county that included all the- 1614
territory within the project area shall exercise the same 1615
powers, execute the same duties, and follow the same procedures 1616
in connection with an improvement under this chapter as the 1617
board of county commissioners of a single county . 1618

~~The joint board may agree to apportion any cost of the-~~ 1619
~~improvement, or expenses incurred in connection therewith, not-~~ 1620
~~paid by assessments or taxes levied for the improvement, or-~~ 1621
~~funds other than county funds, among the participating counties.~~ 1622

~~The joint board shall elect one of its members president-~~ 1623

~~and designate a clerk of one of the boards of county
commissioners of the participating counties as clerk of the
joint board. A majority of the county commissioners constituting
the joint board constitutes a quorum. All decisions of the joint
board shall be made by a majority vote of the county
commissioners constituting the joint board.~~ 1624
1625
1626
1627
1628
1629

~~For the purpose of bringing a referendum petition against
a soil and water conservation project under section 305.31 of
the Revised Code, a resolution adopted by a joint board of
county commissioners shall be considered to be a resolution
adopted by the board of county commissioners of each county in
the project area. The electors of any county in the project area
may file a petition for referendum under that section against a
resolution adopted by the joint board of county commissioners as
if it had been adopted by the board of county commissioners for
that county. The referendum shall be conducted only in the
county in which the referendum petition was filed. The electors
of any county in the project area in which no referendum
petition was filed shall not be eligible to vote in the
referendum, and the outcome of a referendum shall have effect
only in the county in which the referendum was held. Any county
in the project area in which a referendum is not held remains
subject to the provisions of the resolution adopted by the joint
board of county commissioners for the soil and water
conservation district.~~ 1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648

(C) The clerk of the board of county commissioners of the
lead county shall do all of the following: 1649
1650

(1) Act as clerk and administrator of the joint board; 1651

(2) Enter the findings of the joint board in the journal
of the board of county commissioners of the lead county; 1652
1653

(3) Make the final record of the improvement in the lead 1654
county; 1655

(4) Provide copies of all proceedings to the clerks of the 1656
boards of all affected counties. 1657

(D) A majority of the county commissioners constituting 1658
the joint board shall constitute a quorum. All decisions of the 1659
joint board shall be made by a majority vote of the quorum 1660
present at a meeting of the joint board. 1661

(E) The director of natural resources shall be an ex 1662
officio member of the joint board and may participate, in person 1663
or through a designated representative, in deliberations and 1664
proceedings of the joint board. The director shall have no vote 1665
on any proceedings of the joint board except in the case of a 1666
tie for or against an improvement. If the director or the 1667
director's designee is not present at the proceeding, the 1668
director shall review the proceedings and cast the deciding vote 1669
within thirty days of the proceeding. A failure to cast a vote 1670
for or against the improvement within thirty days constitutes an 1671
affirmative vote for the improvement. The clerk shall record the 1672
final resolution of the tie. 1673

(F) Upon the creation of a joint board of county 1674
commissioners, the elected officials in the lead county, 1675
including the engineer, recorder, auditor, prosecutor, 1676
treasurer, judges, and clerk of the board of county 1677
commissioners, shall serve as the administrative officers for 1678
the joint board of county commissioners. 1679

~~Sec. 940.32 940.36. The county auditor and county~~ 1680
~~treasurer of one of the counties represented by a joint board of~~ 1681
~~county commissioners under section 940.31 of the Revised Code,~~ 1682

to be designated by the joint board, shall ex officio become the 1683
~~fiscal agents of all the participating counties. Such~~ (A) The 1684
auditor of the lead county shall certify to the auditor of the 1685
other counties a schedule of any taxes or assessments to be 1686
levied for the improvement, and the auditor of such other county 1687
immediately shall ~~proceed forthwith to~~ place such tax or 1688
assessment upon the duplicates. Taxes or assessments so 1689
certified for collection to an auditor of another county are a 1690
lien on the land within such county from the date such 1691
certificate is received by the auditor of such other county. ~~The~~ 1692

(B) The treasurer of each county shall ~~proceed to~~ collect 1693
~~the same~~ any taxes or assessments levied for the improvement 1694
pursuant to the orders made in the proceedings of the joint 1695
board of county commissioners, and such taxes or assessments 1696
when collected shall be paid to the treasurer for the joint 1697
board. ~~The~~ 1698

(C) The auditor and treasurer of the lead county shall 1699
receive and account for ~~such funds~~ any taxes or assessments 1700
levied for the improvement in the same manner as they would for 1701
taxes or assessments collected within their county. The 1702
treasurer and auditor of the lead county with their bondspersons 1703
are liable on their official bonds for any misappropriation of 1704
such funds. All warrants for the payment of costs in connection 1705
with the improvement shall be drawn by the auditor ~~designated~~ 1706
~~under this section~~ of the lead county, on the treasurer of the 1707
lead county, payable out of the fund designated by the joint 1708
board to receive moneys for the improvement. 1709

~~Sec. 940.35~~ 940.37. The board of county commissioners, or, 1710
if a joint board of county commissioners has been created under 1711
section ~~940.31~~ 940.35 of the Revised Code, the joint board, 1712

shall maintain the ~~works of improvement~~ improvements constructed 1713
~~by the board for a soil and water conservation district~~ under 1714
this chapter. For that purpose, the board of county 1715
commissioners or joint board may use procedures and requirements 1716
established in ~~sections 6137.08 to 6137.14~~ Chapter 6137. of the 1717
Revised Code and may contract with or authorize the board of 1718
supervisors or joint board of supervisors of a soil and water 1719
conservation district to perform maintenance of such works of 1720
improvement. 1721

Sec. 940.38. Any affected landowner may appeal to the 1722
appropriate court of common pleas any action or determination of 1723
a board of supervisors, joint board of supervisors, board of 1724
county commissioners, or joint board of county commissioners 1725
under this chapter. The affected landowner shall make the appeal 1726
within thirty days of the date of the action or determination. 1727
The appeal may be based on, but is not limited to, any of the 1728
following questions: 1729

(A) Is the improvement necessary? 1730

(B) Will the improvement be conducive to the public 1731
welfare? 1732

(C) Is the cost of the improvement greater than the 1733
benefits conferred? 1734

(D) Is the route, termini, or mode of construction the 1735
best to accomplish the purpose of the improvement? 1736

(E) Are the assessments levied according to benefits? 1737

(F) Is the award for compensation or damages just? 1738

Sec. 940.39. (A) For purposes of this section, references 1739
to a "board of supervisors of a soil and water conservation 1740

district" or a "board" includes a joint board of supervisors of 1741
a soil and water conservation district. 1742

(B) Notwithstanding any other provision of law to the 1743
contrary, a board of supervisors of a soil and water 1744
conservation district, when practicable, may conduct meetings by 1745
video conference or, if video conference is not available, by 1746
teleconference. The board of supervisors shall make provisions 1747
for public attendance at any location involved in such a 1748
meeting. The board shall establish the board's main office or 1749
board room as the primary meeting location for the video 1750
conference or teleconference. The conference shall be held at 1751
that location in an open meeting at which the public is allowed 1752
to attend. 1753

(C) Before convening a meeting of a board of supervisors 1754
by video conference or by teleconference, designated staff shall 1755
send, via electronic mail, facsimile, or United States postal 1756
service, a copy of meeting-related documents to each member of 1757
the board. 1758

(D) The minutes of each drainage improvement meeting shall 1759
specify who was attending by teleconference, who was attending 1760
by video conference, and who was physically present. Any vote 1761
taken in a meeting held by teleconference that is not unanimous 1762
shall be recorded as a roll call vote. 1763

(E) Nothing in section 121.22 of the Revised Code 1764
prohibits a board of supervisors from conducting a meeting in a 1765
manner authorized by this section. 1766

Sec. 6131.01. As used in sections 6131.01 to 6131.64 of 1767
the Revised Code: 1768

(A) "Owner" means any owner of any right, title, estate, 1769

or interest in or to any real property and includes persons, 1770
partnerships, associations, private corporations, public 1771
corporations, boards of township trustees, boards of education 1772
of school districts, the mayor or legislative authority of a 1773
municipal corporation, the director of any department, office, 1774
or institution of the state, and the trustees of any state, 1775
county, or municipal public institution. "Owner" also includes 1776
any public corporation and the director of any department, 1777
office, or institution of the state affected by an improvement 1778
but not owning any right, title, estate, or interest in or to 1779
any real property. 1780

(B) "Land" includes any estate or interest, of any nature 1781
or kind, in or to real property, or any easement in or to real 1782
property, or any right to the use of real property, and all 1783
structures or fixtures attached to real property, including but 1784
not restricted to all railroads, roads, electric railroads, 1785
street railroads, streets and street improvements, telephone, 1786
telegraph, and transmission lines, underground cables, gas, 1787
sewage, and water systems, pipe lines and rights of way of 1788
public service corporations, and all other real property whether 1789
public or private. 1790

(C) "Improvement" includes: 1791

(1) The location, construction, reconstruction, 1792
reconditioning, widening, deepening, straightening, altering, 1793
boxing, tiling, filling, walling, arching, or any change in the 1794
course, location, or terminus of any ditch, drain, watercourse, 1795
or floodway; 1796

(2) The deepening, widening, or straightening or any other 1797
change in the course, location, or terminus of a river, creek, 1798
or run; 1799

(3) A levee or any wall, embankment, jetty, dike, dam, 1800
sluice, revetment, reservoir, holding basin, control gate, 1801
breakwater, or other structure for the protection of lands from 1802
the overflow from any stream, lake, or pond, or for the 1803
protection of any outlet, or for the storage or control of 1804
water; 1805

(4) The removal of obstructions such as silt bars, log 1806
jams, debris, and drift from any ditch, drain, watercourse, 1807
floodway, river, creek, or run; 1808

(5) The vacating of a ditch or drain. 1809

(D) "Person" means natural person, firm, partnership, 1810
association, or corporation, other than public corporations. 1811

(E) "Public corporation" or "political subdivision" means 1812
counties, townships, municipal corporations, school districts, 1813
park districts, turnpikes, toll bridges, conservancy districts, 1814
and all other governmental agencies clothed with the power of 1815
levying general or special taxes. 1816

(F) (1) "Benefit" or "benefits," except as ordered in 1817
section 6131.31 of the Revised Code, means advantages to land 1818
and owners, to public corporations as entities, and to the state 1819
resulting from drainage, conservation, control and management of 1820
water, and environmental, wildlife, and recreational 1821
improvements. Factors relevant to whether such advantages result 1822
include: 1823

~~(1)~~ (a) The watershed or entire land area drained or 1824
affected by the improvement; 1825

~~(2)~~ (b) The total volume of water draining into or through 1826
the improvement and the amount of water contributed by each land 1827
owner; 1828

~~(3)-(c)~~ The use to be made of the improvement by any owner, public corporation, or the state. 1829
1830

(2) "Benefit" or "benefits" includes, but is not limited to, any or all of the following factors: ~~elimination~~ 1831
1832

(a) Elimination or reduction of damage from ~~flood~~ flooding; removal 1833
1834

(b) Removal of water conditions that jeopardize public health, safety, or welfare; ~~increased~~ 1835
1836

(c) Increased value of land resulting from ~~the an~~ improvement; ~~use~~ 1837
1838

(d) The use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other incidental purpose ~~incidental thereto; providing~~ 1839
1840
1841

(e) Providing an outlet for the accelerated runoff from artificial drainage ~~whenever the~~ if a stream, watercourse, channel, or ditch that is under improvement is called upon to discharge functions for which it was not designed ~~by nature; it-~~ being the legislative intent that uplands. Uplands that have been removed from their natural state by deforestation, cultivation, artificial drainage, urban development, or other ~~man-made causes~~ human methods shall be considered ~~as to be~~ benefited by an improvement that is required to dispose of the accelerated flow of water from the uplands. 1842
1843
1844
1845
1846
1847
1848
1849
1850
1851

(G) "Environmentally significant areas" mean natural land or water areas that in some degree retain or have reestablished their natural character or have other features of scientific or educational interest such as rare or endangered plant and animal populations or geologic, scenic, or other natural features and, because of their values and functions, contribute to the 1852
1853
1854
1855
1856
1857

community's general welfare. 1858

(H) "Days" means calendar days. 1859

Sec. 6131.04. (A) Any owner may file a petition for the 1860
construction of a drainage improvement with the clerk of the 1861
board of county commissioners of the county in which is located 1862
a part of the land that is averred proposed to be benefited by 1863
benefit from the construction of a proposed improvement. Prior 1864
to filing a petition, the petitioner shall consult with the 1865
county engineer of the county in which the petition will be 1866
filed to discuss the proposed drainage improvement and to 1867
determine the proper forms and procedures for filing the 1868
petition. 1869

(B) The petition shall state that the construction of the 1870
improvement is necessary, will benefit the petitioner, and will 1871
be conducive to the public welfare; shall state the all of the 1872
following: 1873

(1) The nature of the work petitioned for, and may ask to 1874
locate, clean, remove, which may include locating, cleaning, 1875
removing obstructions from, construct, reconstruct, straighten, 1876
deepen, widen, alter, box, tile, fill, wall constructing, 1877
reconstructing, straightening, deepening, widening, altering, 1878
boxing, tiling, filling, walling, or arch arching any ditch, 1879
drain, watercourse, floodway, creek, run, or river or to change; 1880
changing the course, location, or terminus thereof,; or may ask- 1881
to construct constructing a levee, wall, embankment, jetty, 1882
dike, dam, sluice, revetment, reservoir, holding basin, control 1883
gate, breakwater, or other structure for control of water. The 1884
petition shall state the; 1885

(2) The course and termini of the proposed improvement and 1886

the branches, spurs, or laterals, if any are petitioned for, 1887
~~Except as ordered under section 6131.31 of the Revised Code, the~~ 1888
~~petition shall state that;~~ 1889

(3) That the construction of the improvement is necessary 1890
and will benefit the petitioner; 1891

(4) That all costs of engineering, construction, and 1892
future maintenance will be assessed to the benefiting parcels of 1893
land. ~~The petition shall contain a,~~ except as ordered under an 1894
appeal filed in accordance with section 6131.31 of the Revised 1895
Code; 1896

(5) A list of the names and addresses, where known, of all 1897
the owners of the land that the petitioner or the county 1898
engineer claims will be benefited or damaged by the construction 1899
of the proposed improvement, as determined by the county 1900
engineer. ~~The petition shall be signed by one~~ 1901

(C) One or more owners must sign the petition as the 1902
petitioners. If the petitioner is a public corporation or the 1903
state, ~~the petition shall be signed by its authorized~~ 1904
representative must sign the petition. 1905

(D) If the petitioner is the county, the petition shall 1906
must be filed with the clerk of the court of common pleas 1907
without the bond required under section 6131.06 of the Revised 1908
Code, the matters in the petition shall be heard by the common 1909
pleas court as if the petition had come to the court on appeal, 1910
and the clerk and the court shall do all things that sections 1911
6131.01 to 6131.64 of the Revised Code provide that the county 1912
commissioners shall do. The court of common pleas may appoint a 1913
board of arbitrators to assume the duties of the judge. ~~The~~ 1914
~~board shall be comprised of three disinterested persons chosen~~ 1915

~~by the judge, who owners in the county and shall designate one~~ 1916
~~of the persons to be chairman chairperson. A decision of the~~ 1917
~~board shall require approval of a majority of the members. The~~ 1918
~~appointed board shall hear and act on the petition in accordance~~ 1919
~~with this chapter. Either party may appeal the board's decision~~ 1920
~~to the court of common pleas, which shall decide the case on the~~ 1921
~~record of arbitration.~~ 1922

Sec. 6131.05. ~~The petition referred to in section 6131.04~~ 1923
~~of the Revised Code may be amended upon the written application~~ 1924
~~of any (A) Any benefiting owner filed may file an amendment to a~~ 1925
~~petition for a drainage improvement that expands the length of~~ 1926
~~the proposed improvement, provided that such amendment does not~~ 1927
~~expand the area to be benefited by the proposed improvement. An~~ 1928
~~owner shall file the amendment not more than twenty-one days~~ 1929
~~after the date of the view. Such owner shall not propose an~~ 1930
~~amendment that expands either the area or number of parcels to~~ 1931
~~be benefited by the proposed improvement, but shall file a new~~ 1932
~~petition regarding the proposal in accordance with section~~ 1933
~~6131.04 of the Revised Code.~~ 1934

~~(B) A benefiting owner shall file an amendment with the~~ 1935
~~clerk of the board of county commissioners and upon the~~ 1936
~~allowance of the application by the board of county~~ 1937
~~commissioners, by an order entered on its journal.~~ 1938

~~The petition may be amended while the proceedings are~~ 1939
~~pending on appeal in the court of common pleas, pursuant to the~~ 1940
~~rules and laws relating to civil procedure. If the petitioner is~~ 1941
~~the county, the application for amendment shall be filed with~~ 1942
~~the clerk of the court of common pleas and shall be heard~~ 1943
~~pursuant to the rules and laws relating to civil procedure. Any~~ 1944
~~written application for amendment of the petition shall include~~ 1945

~~the information required for the petition in section 6131.04 of~~ 1946
~~the Revised Code, including names and addresses of the~~ 1947
~~additional owners that the petitioner seeking amendment or the~~ 1948
~~county engineer claims will be benefited or damaged by the~~ 1949
~~proposed improvement. Any application, remonstrance, statement,~~ 1950
~~report, or schedule filed in any improvement proceedings may be~~ 1951
~~amended as a petition may be amended, as provided in this~~ 1952
~~section not more than twenty-one days after the view required~~ 1953
~~by section 6131.07 of the Revised Code and shall include the~~ 1954
~~information required by section 6131.04 of the Revised Code~~ 1955
~~along with the amendment.~~ 1956

(C) If the petition was filed by the county under division 1957
(D) of section 6131.04 of the Revised Code, any proposed 1958
amendment to the petition shall be filed with the clerk of the 1959
court of common pleas or with the board appointed under that 1960
division. If the amendment is filed with the clerk of the court 1961
of common pleas, the court shall hear the amendment pursuant to 1962
the rules and laws relating to civil procedure. 1963

Sec. 6131.06. (A) The petitioner shall file with the 1964
petition referred to in section 6131.04 of the Revised Code a 1965
bond in the penal sum of one thousand five hundred dollars, plus 1966
the sum of two five dollars for each parcel of land in excess of 1967
two hundred parcels averred in the petition to be benefited, 1968
with at least two sureties who are freeholders of the county, or 1969
with surety by a surety company authorized to do business in 1970
this state, or with cash that are listed in the petition as 1971
lands that will benefit from the improvement. 1972

(B) The bond shall be made payable to the county, to the 1973
credit of the general drainage improvement fund or a special 1974
fund created for the proposed improvement, and conditioned to 1975

pay the cost of notices, plus any other incidental expenses, 1976
~~except the costs incurred by the engineer in making~~ 1977
~~his preliminary reports~~ all costs associated in preparing for the 1978
view and first hearing if the ~~prayer of the~~ petition is not 1979
granted or if the petition is for any cause dismissed ~~unless the~~ 1980
~~board of county commissioners decides to pay the engineer's~~ 1981
~~costs from the petitioners' bond in accordance with section~~ 1982
~~6131.09 of the Revised Code.~~ 1983

(C) The bond clerk of the board of county commissioners 1984
~~shall be released~~ release the bond at the expiration of the 1985
~~twenty one day~~ thirty-day appeal period provided for in section 1986
6131.25 of the Revised Code after an order of to proceed with 1987
the project by the commissioners board at the first hearing or 1988
at the termination of the appeal. 1989

Sec. ~~6131.57~~ 6131.061. (A) The clerk of the board of 1990
county commissioners ~~and the county engineer~~ shall maintain a 1991
~~permanent file~~ for the proposed improvement containing a record 1992
of the petition, ~~the applications and remonstrances filed, the~~ 1993
amendments, comments, notices, proceedings, resolutions, orders 1994
~~made by the board, the preliminary estimates, and preliminary~~ 1995
~~report of the county engineer, the reports of review by the~~ 1996
~~director of natural resources, the director of transportation,~~ 1997
~~and the directors of any conservancy district, the reports of~~ 1998
~~the engineer as to the construction of the improvement, and such~~ 1999
~~other matter as is proper for any other record regarding the~~ 2000
proposed improvement that is filed with the board. A record of 2001
~~the assessments levied, pursuant to the order of the board, as~~ 2002
~~corrected after the completion of the contract, and the~~ 2003
~~schedules of payments for compensation and damages shall be kept~~ 2004
~~by the~~ 2005

(B) The county auditor engineer shall maintain a file for 2006
the proposed improvement that contains a record of the petition, 2007
amendments to the petition, all reports, estimates, surveys, 2008
maps, plans, drawings, schedules, and other documents prepared 2009
for the proposed improvement by the engineer or the engineer's 2010
designee, and any reports of the director of natural resources, 2011
director of transportation, and directors of any conservancy 2012
districts. The clerk of 2013

(C) After the final hearing of the board of county 2014
commissioners shall, after the final hearing of the board of 2015
county commissioners or after the final judgment, order, or 2016
decree has been rendered upon any appeal, the clerk of the board 2017
of county commissioners shall file with the county engineer all 2018
maps, profiles, and plans of the improvement, which shall be 2019
filed together with an annual record of maintenance and repair, 2020
and may transfer to, the county engineer the file maintained 2021
pursuant to division (A) of this section. Upon receiving the 2022
file, the county engineer shall maintain the file as the 2023
permanent project file, together with an annual record of 2024
maintenance and repairs for the improvement. 2025

(D) The county auditor shall maintain a record of the 2026
estimated and final assessments levied for the improvement, and 2027
the schedules of payments for compensation and damages. 2028

Sec. 6131.07. (A) When the a petition authorized by is 2029
filed under section 6131.04 of the Revised Code is filed with 2030
the clerk of the board of county commissioners, the clerk shall 2031
give notice of the petition to the board of county commissioners 2032
and to the county engineer. 2033

(B) The board of county commissioners shall, by an order 2034
upon its journal, fix do both of the following: 2035

(1) Establish a date and hour for the a view of the 2036
proposed improvement, which shall be ~~not fewer than twenty-five~~ 2037
~~nor more than ninety~~ between thirty and one hundred twenty days 2038
after the date on which the petition was filed with the clerk. 2039
~~The board shall designate a convenient place near the proposed~~ 2040
~~improvement at which the view shall start. The board shall also~~ 2041
~~fix;~~ 2042

(2) Establish a date and hour, ~~not fewer than ten nor more~~ 2043
~~than~~ between thirty and ninety days after the date set for the 2044
view, when it will hold its first hearing ~~at a place designated~~ 2045
~~by it. As soon as the dates for the view and first hearing have~~ 2046
~~been fixed by the board, the clerk shall prepare and mail, at on~~ 2047
the petition. 2048

(C) At least twenty ~~twenty-one~~ days prior to the date set 2049
for the view, the clerk shall send a written notice to the 2050
owners named in the petition and of legal record on the date of 2051
its filing, ~~setting forth the pendency, substance, and prayer of~~ 2052
~~the petition,~~ . The clerk shall include all of the following in 2053
the notice: 2054

(1) The date, time, and location for the view and the 2055
first hearing; 2056

(2) A description of the proposed improvement and its 2057
location as stated in the petition, a map indicating the 2058
location of the proposed improvement or information on where to 2059
access such map, and an explanation of how to access additional 2060
information or ask questions about the proposed improvement; 2061

(3) A statement that all costs of engineering, 2062
construction, and future maintenance will be assessed to the 2063
benefiting parcels of land, ~~and the date, hour, and starting~~ 2064

~~place of the view and the date, hour, and location of the first~~ 2065
~~hearing. For each proposed improvement, all individual notices~~ 2066
~~shall be sent by the same type of mail, either certified mail,~~ 2067
~~return receipt requested, or first class mail in a five day~~ 2068
~~return envelope. Whichever method the board chooses, the;~~ 2069

(4) A statement that an owner may file, not more than 2070
twenty-one days after the date of the view, an amendment to the 2071
petition that expands the length of the proposed improvement, 2072
provided that such amendment does not expand the area to be 2073
benefited by the proposed improvement; 2074

(5) A statement that an owner receiving the notice may 2075
comment on the proposed improvement in writing before or in 2076
person at the public hearings on the petition; 2077

(6) The address at which to file an amendment to the 2078
petition or submit written comments on the proposed amendment or 2079
the petition. 2080

(D) The clerk shall notify all owners that are adjacent to 2081
the proposed improvement by certified mail and shall notify all 2082
other owners by certified mail or first class mailings. The 2083
words "Legal Notice of Proposed Drainage Improvement" shall be 2084
printed in plain view on the face of the envelope. When the 2085
owner is not a natural person, the notice shall be mailed to its 2086
chief officer or managing agent at the usual place of business 2087
in the county. If such an owner is a foreign or domestic 2088
railroad company, regardless of whether the charter thereof 2089
prescribes the manner or place of service of process thereon, 2090
the notice shall be addressed to the property owner of record as 2091
listed by the county auditor on the general tax list. If such an 2092
owner other than a railroad company does not maintain a regular 2093
place of business in the county, then the notice shall be mailed 2094

to the nearest regular place of business of such an owner. ~~The~~ 2095

(E) The clerk shall ~~cause to be published~~ publish a legal 2096
notice in at least one newspaper of general circulation in the 2097
area affected by the proposed improvement, stating the name and 2098
number, if any, of the proposed improvement, the location and 2099
nature of the work proposed in the petition, and the date, time, 2100
and location of the view and first hearing. If the individual 2101
notices are sent by certified mail, the ~~publication clerk shall~~ 2102
~~be publish the notice~~ in one issue of such newspaper, and shall 2103
not ~~be publish the notice~~ less than thirteen days prior to the 2104
date of the view. If the individual notices are sent by first- 2105
class mail in five-day return envelopes, the ~~publication of this~~ 2106
~~clerk shall publish the newspaper notice shall be made~~ in two 2107
issues of the newspaper, and the notice shall include a list of 2108
the names of all addressees whose individual notices were 2109
undelivered. The clerk shall publish the first such publication 2110
~~shall not~~ be less than thirteen days prior to the date of the 2111
view, and the second publication ~~shall not~~ be less than six days 2112
prior to the date of the view. The publication shall serve as 2113
public notice to all owners of the pendency of the improvement 2114
whether or not they were individually named and notified. 2115

Proof of notice by publication shall be verified by 2116
affidavit of the printer or other person knowing the fact, and 2117
the clerk of the board of county commissioners shall prepare a 2118
certificate showing the service of the notices by mail, both of 2119
which shall be filed with the clerk of the board of county 2120
commissioners on or before the day of the first hearing. Notices 2121
returned undelivered and receipts shall be kept on file by the 2122
clerk as part of the permanent record of the improvement. 2123

Sec. 6131.08. ~~Owners~~ Any owner who ~~have~~ has not joined in 2124

~~the a petition authorized by filed in accordance with section 2125
6131.04 of the Revised Code and who are in favor of the 2126
improvement may file applications requesting that the 2127
improvement be granted and state their reasons therefor. Owners- 2128
who are opposed to the improvement may file remonstrances- 2129
against the granting of the improvement and state their reasons- 2130
therefor. The applications or remonstrances may be filed with- 2131
the clerk of the board of county commissioners may comment on 2132
the proposed improvement at any time before a final order on the 2133
petition is made by the board of county commissioners confirming- 2134
the assessments and ordering the letting of the contracts for- 2135
the construction of the improvement or before a final order is- 2136
made dismissing the petition. Comments may be made in person at 2137
the public hearings on the petition or by filing written 2138
comments with the clerk of the board of county commissioners. 2139~~

~~Sec. 6131.09. When notified of the filing of a petition- 2140
authorized by section 6131.04 (A) Upon receiving the notice 2141
required under division (A) of section 6131.07 of the Revised 2142
Code, the county engineer shall prepare a preliminary estimate- 2143
of the cost of report on the proposed improvement. The engineer- 2144
shall file at the first hearing, as a guide to the commissioners- 2145
and the petitioners, a preliminary report including his, which 2146
shall include all of the following: 2147~~

~~(1) A preliminary estimate of the cost, his comment of the 2148
proposed improvement; 2149~~

~~(2) Comments on the feasibility of the project, and a; 2150~~

~~(3) A statement of his the engineer's opinion as to 2151
whether benefits from the project are likely to exceed the 2152
estimated cost. The preliminary report shall; 2153~~

(4) A list all of factors apparent to the engineer, both 2154
favorable and unfavorable to the proposed improvement, ~~so that~~ 2155
~~the petitioners may be informed as to what is involved.~~ 2156

(B) In addition to reporting on the improvement as 2157
petitioned, the engineer may submit alternate proposals to 2158
accomplish the ~~prayer intent~~ of the petition. 2159

(C) The county commissioners may require the county 2160
engineer to file any additional preliminary reports, ~~of whatever~~ 2161
~~nature,~~ that in the opinion of the board will serve as a guide 2162
to the board and the petitioners in deciding whether to proceed 2163
with the proposed improvement. 2164

(D) The costs incurred by the engineer in making 2165
preliminary reports may be paid from the bond of the petitioners 2166
if the petition is dismissed at the first hearing, and any 2167
amount in excess of the bond shall be paid from county funds. If 2168
the engineer's costs are not paid from the petitioners' bond, 2169
they shall be paid from county funds. 2170

Sec. 6131.10. ~~The board of county commissioners and the~~ 2171
(A) On the date established for the view of a proposed 2172
improvement, the county engineer or its designated 2173
representative shall meet at the designated place near present 2174
an overview of the proposed improvement on the day of, using 2175
methods and means that the board of county commissioners 2176
determines will adequately inform those attending the view fixed 2177
~~as provided in section 6131.07 of the Revised Code and hear the~~ 2178
~~proof offered at that time by any owner affected by~~ about the 2179
proposed improvement's location and the drainage issues intended 2180
to be addressed by the proposed improvement. The board and the 2181
~~county engineer or his authorized representative shall go over~~ 2182
~~and along the line of the proposed improvement and each branch,~~ 2183

~~lateral, or spur mentioned in the petition or in any application- 2184
filed therefor. The board shall adjourn the view from day to- 2185
day, or a longer period, until the view is completed. Upon- 2186
completing the view, the board shall adjourn the further hearing- 2187
to the place designated by the board, to the day and hour fixed- 2188
in the notice given. On the day so fixed for the first hearing- 2189
on the petition, the board shall take up the further hearing on- 2190
the petition and on the applications or remonstrances filed. The- 2191
board shall hear the preliminary report of the county engineer- 2192
as provided in section 6131.09 of the Revised Code and shall- 2193
hear any evidence offered by any owner for or against the- 2194
granting of the proposed improvement or for or against the- 2195
granting of any laterals, branches, spurs, or change of route,- 2196
course, termini, or manner of construction described in the- 2197
petition or in any application filed therefor. If any- 2198
applications for branches, laterals, spurs, or change of route- 2199
or course are filed after the view, the board shall fix a time- 2200
to view and shall view them. The first hearing may be adjourned- 2201
from day to day, or for a longer time that may be reasonable, so- 2202
that all interested owners may have an opportunity to be heard- 2203
for or against- 2204~~

(B) Upon a request made by a commissioner or an owner in 2205
the area to be benefited by the proposed improvement, the board 2206
of county commissioners shall recess the view and reconvene it 2207
at a site along the proposed improvement for the purpose of 2208
gaining additional information about the drainage issues 2209
intended to be addressed by the proposed improvement. 2210

(C) If the area to be viewed is extensive, the board of 2211
commissioners may conduct the view on more than one day and may 2212
adjourn from day to day, or a longer period, until the view is 2213
completed. 2214

Sec. 6131.101. (A) At the first hearing on a petition for 2215
a proposed improvement, the board of county commissioners shall 2216
do both of the following: 2217

(1) Hear the preliminary report of the county engineer 2218
required under section 6131.09 of the Revised Code; 2219

(2) Hear any evidence offered by any owner for or against 2220
the granting of the proposed improvement or for or against the 2221
granting of any laterals, branches, spurs, or change of route, 2222
course, termini, or manner of construction described in the 2223
petition or in any amendment. 2224

(B) If necessary, the board of county commissioners may 2225
recess and continue the hearing on subsequent days as may be 2226
reasonable to consider additional information about the proposed 2227
improvement or so that all interested owners may have an 2228
opportunity to comment on the proposed improvement. 2229

(C) At the conclusion of the first hearing, the board 2230
shall vote to determine whether to proceed with the project 2231
survey and design or to dismiss the petition, taking into 2232
consideration the petition, the preliminary report, and comments 2233
on the proposed improvement. 2234

Sec. 6131.11. (A) If the board of county commissioners, ~~at~~ 2235
finds at the conclusion of the first hearing, ~~finds for a~~ 2236
proposed improvement that a proposed improvement is not 2237
necessary, ~~or finds that a proposed improvement will not be~~ 2238
conducive to the public welfare, or ~~finds that the estimated~~ 2239
cost of ~~a~~ the proposed improvement will exceed the benefits to 2240
be derived if it is constructed, the board shall dismiss the 2241
petition for the proposed improvement and enter its findings 2242
upon its journal. 2243

(B) Any owner who is affected by the order of dismissal 2244
may appeal to the court of common pleas of the county in which 2245
the petition was filed, as provided in sections 6131.12 to 2246
6131.64 of the Revised Code. If no appeal is filed within 2247
~~twenty one~~ thirty days, pursuant to section 6131.25 of the 2248
Revised Code, the ~~petitioner bond shall pay cover~~ all the costs 2249
incurred in the proceedings ~~and the~~. Any remaining funds from 2250
the bond shall be released returned to the petitioner. 2251

(C) An order issued by the board under this section is 2252
effective on the day of the hearing at which the board issued 2253
it. 2254

Sec. 6131.12. ~~If~~ (A) At the conclusion of the first 2255
hearing on a petition for a proposed improvement, the board of 2256
county commissioners may decide to proceed with the project 2257
survey and design for a proposed improvement if the board finds 2258
that all of the following: 2259

(1) That a proposed improvement is necessary and that it 2260
will be; 2261

(2) That the proposed improvement is conducive to the 2262
public welfare, ~~and if the board is;~~ 2263

(3) That it is reasonably certain that the cost thereof 2264
benefits of the proposed improvement will be less than the 2265
benefits, it may grant the prayer of the petition. When deciding 2266
whether to grant the prayer of the petition, the outweigh its 2267
costs. 2268

(B) The board shall give consideration to the protection 2269
of environmentally significant areas when those areas could be 2270
adversely affected by the construction of the proposed 2271
improvement and, if necessary, to alternative plans providing 2272

for that protection as well as for construction of the proposed 2273
improvement. ~~Upon granting the prayer of the~~ 2274

(C) After deciding to proceed with a petition for a 2275
proposed improvement, the board shall determine do all of the 2276
following: 2277

(1) Determine the route and termini of the proposed 2278
improvement and of the branches, spurs, and laterals thereof and 2279
the manner of constructing the same. ~~On any petition for any~~ 2280
~~improvement of a ditch, drain, watercourse, or levee, the~~ The 2281
board, without request or application, may by its order change 2282
either terminus of the proposed improvement or the route thereof 2283
if it finds that the change is necessary to accomplish the 2284
purposes of the improvement. ~~An order issued by the board under~~ 2285
~~this section granting the prayer of the petition is effective on~~ 2286
~~the day of the hearing at which the board issued it.~~ 2287

~~Upon granting the petition, the board shall order the~~ 2288
~~county auditor to transfer from the general revenue funds of the~~ 2289
~~county, not otherwise appropriated, to the general drainage~~ 2290
~~improvement fund an amount not more than twenty five per cent of~~ 2291
~~the engineer's preliminary estimate. After the twenty one day~~ 2292
~~period for appeal, as provided in section 6131.25 of the Revised~~ 2293
~~Code, has expired and no appeal has been taken, and as soon as~~ 2294
~~the transfer of funds has been authorized, the board shall order~~ 2295

(2) Order the county engineer to prepare the reports, 2296
plans, and schedules as provided in ~~sections 6131.01 to 6131.64~~ 2297
~~of the Revised Code~~ this chapter. ~~It shall fix~~ 2298

(3) Set a date for the filing of ~~the~~ reports, plans, and 2299
schedules by the engineer, allowing such time as is necessary 2300
for the preparation of the reports, plans, and schedules by the 2301

engineer, and such time may be extended from time to time by the 2302
board. 2303

~~The board shall adjourn the hearing on the improvement to 2304
the date that it has fixed for the filing of the reports, plans, 2305
and schedules by the engineer and adjourn the proceedings from 2306
time to time, if necessary, thereafter. No change in the route 2307
or termini of any proposed improvement shall be made, no 2308
branches, laterals, or spurs shall be granted, and no change 2309
shall be made in the nature of the work proposed after the first 2310
hearing is completed, except upon application of an interested 2311
owner affected by the proposed improvement and upon notice given 2312
to all owners affected by the change, as provided in sections 2313
6131.01 to 6131.64 of the Revised Code. All the findings and 2314
orders of the board shall be entered in its journal. 2315~~

~~The route of an improvement shall so far as practicable be 2316
located so as to avoid running the improvement diagonally across 2317
property and shall where practicable follow property lines, 2318
section lines, and lines of public highways, but where the line 2319
of a public highway is followed, approval must be obtained from 2320
the agency owning the highway. 2321~~

(D) After the thirty-day period for appeal provided under 2322
section 6131.25 of the Revised Code has expired and no appeal 2323
has been filed, the board may order the county auditor to 2324
transfer funds of the county not otherwise appropriated to the 2325
appropriate drainage improvement fund. The board shall not 2326
appropriate an amount that exceeds twenty-five per cent of the 2327
engineer's preliminary cost estimate. 2328

(E) If the board ~~finds for the~~ decides to proceed with a 2329
petition for a proposed improvement, and if the improvement is 2330
being undertaken through the joint efforts and cooperation of 2331

the board and any federal or state agency, and if the federal 2332
regulations, state agency rules, or other procedures of the 2333
cooperating agency are in conflict with Chapter 6131. of the 2334
Revised Code with respect to the procedures for the preparing of 2335
contracts, the issuing of bids, the making of awards, and 2336
generally the administering of the contracts, the board may 2337
adopt the federal regulations, state agency rules, or procedures 2338
in those areas where conflict exists and proceed with the 2339
improvement in accordance with the requirements of the federal 2340
regulations, state agency rules, or procedures. 2341

(F) The board shall enter all of its findings and orders 2342
in the board's journal. An order issued by the board under this 2343
section granting the intent of the petition is effective on the 2344
day of the hearing at which the board issued it. 2345

Sec. 6131.13. The board of county commissioners ~~may hear~~ 2346
~~and determine at the same time and under one petition, upon~~ 2347
~~proper averments, the following questions:~~ 2348

~~(A) The locating of a new ditch, drain, or watercourse, or 2349~~
~~one partly old and partly new, or one partly open and partly 2350~~
~~tiled;~~ 2351

~~(B) The deepening, widening, straightening, boxing, 2352~~
~~tiling, or changing of the route or course of, or the altering 2353~~
~~in any manner of, an old ditch, drain, or watercourse;~~ 2354

~~(C) The connecting into a single system of two or more 2355~~
~~improvements.~~ 2356

The board, on application of owners interested or at its 2357
own discretion, may consolidate and treat as a petition for one 2358
improvement petitions pending at the same time for two or more 2359
separate improvements which connect with each other, or which 2360

serve common territory, or which can readily be combined into 2361
one system. In case of such consolidation, the board shall enter 2362
its action upon its journal, and if necessary, it shall order 2363
the county engineer to re-estimate and make such further reports 2364
and schedules as are necessary upon its order consolidating the 2365
improvements. If two or more improvements are consolidated, the 2366
proceedings after consolidation shall be the same as if all the 2367
matters were petitioned for in one petition. 2368

Sec. 6131.14. ~~The~~ (A) Upon the board's determination to 2369
proceed with the project survey and design on a proposed 2370
improvement under section 6131.12 of the Revised Code, the clerk 2371
of the board of county commissioners shall ~~certify immediately~~ 2372
forward a copy of the board's findings and orders to the county 2373
engineer ~~immediately, after the requirements of section 6131.12~~ 2374
~~of the Revised Code have been met, a copy of the findings and~~ 2375
~~orders of the board of county commissioners in favor of an~~ 2376
~~improvement.~~ 2377

(B) The county engineer shall ~~make the~~ do all of the 2378
following: 2379

(1) Conduct all necessary ~~survey surveys~~ for the proposed 2380
improvement. ~~The engineer shall make;~~ 2381

(2) Prepare plans for structures; 2382

(3) Create maps showing the location of the land proposed 2383
to be assessed, ~~and profiles showing the cuttings and gradient;~~ 2384

(4) Prepare construction drawings of the improvement ~~and~~ 2385
~~shall make;~~ 2386

(5) Prepare an estimate of the cost of the ~~construction of~~ 2387
~~the improvement, which shall include actual construction cost,~~ 2388
the cost of engineering, the cost of the first year maintenance, 2389

and the cost of notices, publication, and other incidental 2390
expenses. ~~The~~ If applicable, the engineer shall ~~may~~ recommend 2391
the maintenance district in which the improvement shall be 2392
placed. The assessment of the improvement for maintenance for 2393
one year ~~shall be added to the cost of construction in making~~ 2394
~~the actual assessment and~~ shall be credited to the maintenance 2395
fund of the district. 2396

(6) Prepare a schedule of damages that includes both of 2397
the following: 2398

(a) An estimate of the value of land or other property 2399
necessary to be acquired through purchase or voluntary transfer 2400
or appropriated in accordance with section 163.01 to 163.62 of 2401
the Revised Code, and a description of that land or other 2402
property; 2403

(b) An estimate of the total damages to be sustained by 2404
owners as a result of the construction and subsequent 2405
maintenance of a proposed improvement, along with the name and 2406
address of each owner that is alleged to be damaged, the amount 2407
of each owner's estimated damages, and an explanation of each 2408
owner's injury. 2409

(C) The county engineer shall set proper construction 2410
stakes and shall note the intersection of the line of the 2411
improvement with the apparent land boundaries of separate 2412
owners, township and county lines, natural landmarks, road 2413
crossings, or other lines or marks. The engineer shall take and 2414
note any necessary levels off the line of the improvement to 2415
determine the area of the land subject to drainage. 2416

~~The engineer shall also establish, at intervals of not~~ 2417
~~less than one in each mile, in the most practicable permanent~~ 2418

~~form, and in locations where destruction or disturbance is~~ 2419
~~improbable, bench marks from which the original levels of the~~ 2420
~~improvement can be established. The bench marks and all levels~~ 2421
~~of the improvement shall be based upon some established~~ 2422
~~elevation of the geological survey of the United States, if any,~~ 2423
~~in the county, and the relation of any assumed elevation used by~~ 2424
~~the engineer in the work upon any improvement to the elevation~~ 2425
~~established by the geological survey shall be accurately stated~~ 2426
~~in the engineer's report. The engineer shall make a plan of the~~ 2427
work proposed to be done, which shall show the grade, the depth, 2428
the excavating to be done, the location of the permanent bench 2429
marks and their actual elevation based on the most recent United 2430
States geological survey data above or below the base elevation 2431
used, and such other data as in the judgment of the engineer 2432
will aid in retracing lines, levels, or other features of the 2433
improvement. The plan shall indicate the profile and the nature 2434
of the excavation. 2435

~~As soon as the engineer has completed the maps, profiles,~~ 2436
~~and plans for the improvement, the~~ (D) (1) The engineer shall 2437
transmit copies ~~thereof~~ of the construction drawings to the 2438
director of natural resources, the director of transportation 2439
when a state highway is affected, and the board of directors of 2440
any conservancy district within which any part of the lands or 2441
streams affected by the proposed improvement may lie. 2442

(2) The director of natural resources, the director of 2443
transportation, and the board of directors of the conservancy 2444
district shall review the plans submitted and within thirty days 2445
file with the county engineer a report indicating approval or, 2446
in case that approval cannot be given, a report with 2447
recommendations. 2448

(3) The approval or report with recommendations, which, 2449
where appropriate, shall include recommendations regarding the 2450
use of best management practices that are consistent with the 2451
prayer of the petition, shall be transmitted by the engineer to 2452
the board of county commissioners, who shall take notice of the 2453
approval or recommendations and shall authorize the engineer to 2454
make any changes or alterations that in the judgment of the 2455
board are necessary or desirable. 2456

(4) Upon receipt of approval of the plans by the director 2457
of natural resources, the director of transportation, and the 2458
board of directors of any conservancy districts affected, or 2459
upon completion of any changes authorized by the board of county 2460
commissioners, the engineer shall file the construction drawings 2461
with the clerk of the board of county commissioners ~~all maps,~~ 2462
~~profiles, and plans as provided by this section.~~ 2463

(E) The engineer shall prepare specifications for the 2464
construction of the improvement. ~~The engineer shall specify a~~ 2465
~~width of temporary easement for construction purposes. The~~ 2466
~~specifications shall provide for~~ that include all of the 2467
following: 2468

(1) The route of an improvement, which, as practicable as 2469
possible, shall be located to avoid running the improvement 2470
diagonally across property and to follow property lines, section 2471
lines, and lines of public highways. However, where the line of 2472
a public street or highway is followed, approval must be 2473
obtained from the governmental entity owning the street or 2474
highway. 2475

(2) The width of the temporary easement for construction 2476
required for the improvement. The specifications shall require 2477
the temporary easement to include spreading and leveling of 2478

spoil banks and shall prohibit the temporary easement from being 2479
more than seventy-five feet from the top of the bank. 2480

(3) The width of the permanent easement required for the 2481
improvement. The specifications shall provide for erosion and 2482
sediment control through the establishment of a sod or seeded 2483
strip not fewer than ~~four-ten~~ feet nor more than fifteen feet 2484
wide, measured at right angles to the top of the ditch bank, on 2485
both sides of the ditch, except where suitable vegetative cover 2486
exists. The strip or other such controls shall be considered a 2487
part of the permanent improvement. ~~Sod~~ 2488

(F) The county engineer shall provide to the county 2489
auditor the acreages of sod or seeded strips established and 2490
~~maintained in excess of four feet under this section and the~~ 2491
county auditor shall be compensated for by their removal ~~remove~~ 2492
the entire amount of each sod or seeded strip from the taxable 2493
valuation of the property of which they are a part. ~~The engineer~~ 2494
~~shall make estimates of the cost of excavating and of the cost~~ 2495
~~of material and may divide the construction of the improvement~~ 2496
~~into construction areas as considered expedient.~~ 2497

(G) The engineer shall make a note of all fences, 2498
floodgates, culverts, or bridges that will be removed in 2499
constructing the improvement and of all culverts or bridges that 2500
must be adjusted or the channel of which must be enlarged to 2501
construct the improvement. 2502

(H) In estimating the cost of an improvement, the engineer 2503
may include the cost of installing gates in fences on the 2504
reserved right-of-way where needed to provide access for 2505
maintenance. The gates shall be kept locked when requested by 2506
the owner and shall be considered a part of the original 2507
improvement and subject to maintenance as provided by ~~sections~~ 2508

~~6137.01 to 6137.12~~ Chapter 6137. of the Revised Code. 2509

(I) The engineer shall make an estimate of the cost of 2510
inspecting the work as it progresses and shall, with the 2511
assistance of the prosecuting attorney, prepare forms for 2512
contracts with bidders and forms of bid guaranties that meet the 2513
requirements of section 153.54 of the Revised Code. 2514

(J) Upon the acceptance of the contract work, the engineer 2515
shall file with the county recorder ~~a~~ all of the following: 2516

(1) A property plat showing the ~~general~~ owners of record 2517
and parcel numbers along the drainage improvement; 2518

(2) The location of the improvement ~~and a;~~ 2519

(3) A statement describing the width of the permanent 2520
easement for maintenance as provided for in section 6137.12 of 2521
the Revised Code; 2522

(4) An affidavit listing the owners of record, complete 2523
property descriptions, and parcel numbers subject to the 2524
permanent easement. The engineer shall note the property plat in 2525
the affidavit. 2526

The engineer shall include the permanent easement in the 2527
county's geographic information systems or other mapping system, 2528
if available. ~~The~~ 2529

The engineer shall make an itemized bill of the costs and 2530
expenses incurred in the proper discharge of duties set forth in 2531
this section and shall file the maps, profiles, plans, 2532
schedules, and reports with the clerk of the board of county 2533
commissioners upon completing them. 2534

Sec. 6131.15. (A) The county engineer shall ~~estimate the~~ 2535
prepare a schedule of assessments that includes all of the 2536

following: 2537

(1) The name and address of each private owner of land and 2538
a description of the land to be benefited by the proposed 2539
improvement. The engineer shall obtain the names and addresses 2540
from the tax duplicates of the county. The engineer shall obtain 2541
the description from the county recorder's office. For purposes 2542
of the description the county recorder shall not require a metes 2543
and bounds survey. 2544

(2) The amount of the estimated assessment to be assessed 2545
to each tract of land. An assessment shall not be less than ten 2546
dollars. The total amount of the estimated assessments, 2547
including the total estimated assessments allocated to public 2548
corporations and the state, shall equal the estimated cost of 2549
the proposed improvement. 2550

(3) An explanation of each assessment that is for purposes 2551
other than drainage; 2552

(4) The benefits accruing to ~~public corporations~~ political 2553
subdivisions and any department, office, or institution of the 2554
state. The engineer shall determine the estimated cost of the 2555
improvement that each ~~public corporation~~ political subdivision 2556
and any department, office, or institution of the state shall be 2557
assessed by reason of the benefit to public health, safety, 2558
convenience, the environment, wildlife, recreation, and welfare, 2559
or as the means of improving any street, road, or highway under 2560
the control or ownership of any ~~public corporation~~ political 2561
subdivision or any department, office, or institution of the 2562
state, or for benefit to any land owned by any public 2563
corporation or any department, office, or institution of the 2564
state. The engineer shall prepare a schedule of assessments 2565
containing the name and address of each ~~public corporation~~ 2566

political subdivision and each department, office, or 2567
institution of the state so benefited, the amount of the 2568
estimated assessment, and an explanation of the assessment if 2569
the assessment is for purposes other than drainage. 2570

~~The county engineer shall also include in the schedule of-~~ 2571
~~assessments the name and address of each private owner of land-~~ 2572
~~and a description of the land believed to be benefited by the-~~ 2573
~~proposed improvement, which names and descriptions shall be-~~ 2574
~~taken from the tax duplicates of the county. The engineer shall-~~ 2575
~~enter in the schedule the amount of the estimated assessment,-~~ 2576
~~which in no case shall be less than ten dollars, to be assessed-~~ 2577
~~to each tract of land and an explanation of the assessment, if-~~ 2578
~~the assessment is for purposes other than drainage, by reason of-~~ 2579
~~the construction of the improvement upon which the assessment is-~~ 2580
~~based. The total of these estimated assessments including the-~~ 2581
~~total estimated assessments allocated to public corporations and-~~ 2582
~~the state shall equal the estimated cost of the proposed-~~ 2583
~~improvement.~~ 2584

~~In determining the estimated drainage assessments for a-~~ 2585
~~parcel, the county engineer shall give primary consideration to-~~ 2586
~~the potential increase in productivity that the parcel may-~~ 2587
~~experience as a result of the improvement and shall also give-~~ 2588
~~consideration to the quantity of drainage contributed, the-~~ 2589
~~relative location of the property to the project, the portion of-~~ 2590
~~the project through which the drainage from the parcel flows,-~~ 2591
~~the value of the project to the watershed, and benefits as-~~ 2592
~~defined in section 6131.01 of the Revised Code.~~ 2593

~~The county engineer shall also estimate the value of land-~~ 2594
~~or other property necessary to be taken and the damages to be-~~ 2595
~~sustained by any owner as a result of the construction of the-~~ 2596

~~proposed improvement and the subsequent maintenance of the~~ 2597
~~improvement. The engineer shall prepare a schedule of damages~~ 2598
~~containing the name and address of each owner alleged to be~~ 2599
~~damaged, the amount of the estimated damages, and an explanation~~ 2600
~~of the injury upon which the estimate is based. The engineer's~~ 2601
~~schedule of damages shall also contain the value of the land or~~ 2602
~~other property necessary to be taken, the name and address of~~ 2603
~~the owner, and a complete description of the land or other~~ 2604
~~property. The engineer shall include the total of the estimated~~ 2605
~~damages and valuations as part of his estimate of the total cost~~ 2606
~~of constructing the improvement.~~ 2607

(B) In calculating each estimated assessment, the county 2608
engineer shall do both of the following: 2609

(1) Use the information compiled in accordance with 2610
divisions (B) (5) and (6) of section 6131.14 of the Revised Code; 2611

(2) Consider the following factors: 2612

(a) Acreage of a parcel; 2613

(b) Volume of water produced by a parcel; 2614

(c) Remoteness of the parcel to the improvement; 2615

(d) Percentage of the improvement used by the parcel; 2616

(e) Work determined to benefit that particular parcel only 2617
and not the remainder of parcels in the watershed; 2618

(f) Soils; 2619

(g) County auditor's land value or current agricultural 2620
use value, if applicable; 2621

(h) Existing drainage infrastructure that can be 2622
incorporated into the improvement and associated cost savings; 2623

(i) Any other factors pertinent to that particular 2624
petition and watershed; 2625

(j) Any benefits as defined in section 6131.01 of the 2626
Revised Code. 2627

(C) The county engineer, in making ~~his~~ the estimate of the 2628
amount to be assessed each tract of land, each ~~public~~ 2629
~~corporation~~ political subdivision, and the state in accordance 2630
with this section, and the board of county commissioners, in 2631
amending, correcting, confirming, and approving the assessments 2632
in accordance with section 6131.22 of the Revised Code, shall 2633
levy the assessments according to benefits. Each tract of land 2634
and ~~public corporation~~ political subdivision affected by an 2635
improvement and the state shall be assessed in the proportion 2636
that each is benefited by the improvement, as "benefit" and 2637
"improvement" are defined in section 6131.01 of the Revised 2638
Code, and not otherwise. 2639

Sec. 6131.16. (A) Upon the filing with the clerk of the 2640
board of county commissioners of the reports, plans, and 2641
schedules by the county engineer as provided in section 6131.14 2642
of the Revised Code, the board of county commissioners shall fix 2643
a date not fewer than twenty-five nor more than ninety days 2644
thereafter when a final hearing on the report shall be held. 2645
~~Upon the fixing of the date~~ 2646

(B) At least twenty-one days prior to the date established 2647
for the hearing, the clerk shall ~~immediately give~~ provide notice 2648
by certified mail, return receipt requested, or by first class 2649
mail in a five-day return envelope. For each improvement, all 2650
individual notices shall be sent by the same type of mail. 2651
~~Whichever method the board chooses, the~~ to all owners that are 2652
adjacent to the proposed improvement by certified mail and to 2653

all others in the area to be benefited by the proposed 2654
improvement by certified or first class mail. The clerk shall 2655
ensure that the words "Legal Notice of Proposed Drainage 2656
Improvement" shall be are printed in plain view on the face of 2657
the envelope. ~~Notice~~ The clerk shall be sent send the notice to 2658
all the owners whose names appear in the engineer's schedules of 2659
assessments and damages. ~~The notice clerk shall be mailed mail~~ 2660
the notice to each address as given in the petition or to such 2661
address as the clerk learns to be the correct address, as 2662
provided in section 6131.07 of the Revised Code. If the schedule 2663
of assessments or the schedule of damages filed by the engineer 2664
contains the names of owners other than those mentioned in the 2665
petition, ~~notices the clerk shall also be mailed mail the notice~~ 2666
to those owners. The clerk shall include in the notice all of 2667
the following: 2668

(1) An owner's estimated assessment, the estimated 2669
damages, if any, and of any compensation for land or other 2670
property necessary to be taken on each tract of land owned by 2671
the owner, as estimated and described in the schedules; 2672

(2) The date, time, and location of the final hearing by 2673
the board on the report of the engineer and on the proceedings 2674
for the improvement; 2675

(3) A statement that an owner may file an exception to the 2676
assessments or a claim for compensation or damages with the 2677
clerk of the board of county commissioners not less than five 2678
days before the date fixed for the final hearing; 2679

(4) A statement that if bonds or notes are to be issued, 2680
an owner may pay an assessment in cash by giving notice to do so 2681
on a form proscribed by the board of county commissioners not 2682
more than twenty-one days after the final hearing or that an 2683

owner may pay the assessments in installments payable with 2684
interest added at the same rate that bonds or notes bear 2685
interest. 2686

(C) The clerk shall cause to be published a legal notice 2687
in at least one newspaper of general circulation in the area 2688
affected by the improvement, stating the name and number, if 2689
any, of the proposed improvement, the location and nature of the 2690
work proposed in the petition, and the date, time, and location 2691
of the final hearing. The publication of this notice shall be 2692
made in one issue of the newspaper if the individual notices are 2693
sent by certified mail. If the individual notices are sent by 2694
first-class mail in five-day return envelopes, the publication 2695
of this newspaper notice shall be made in two issues of the 2696
newspaper, and the notice shall include a list of the names of 2697
all addressees whose individual notices were undelivered. The 2698
publication shall be not fewer than thirteen days prior to the 2699
date of the final hearing. The publication shall serve as public 2700
notice to all owners of the substance of the proposed 2701
improvement and of the pendency of the final hearing of the 2702
board of county commissioners in the proceedings to authorize 2703
the construction of the proposed improvement whether or not they 2704
were individually named and notified. 2705

~~The mailed legal notice shall notify the owners of the~~ 2706
~~assessment or the estimated damages, if any, and of compensation~~ 2707
~~for any land or other property necessary to be taken on each~~ 2708
~~tract of land owned by the owner, as estimated and described in~~ 2709
~~the schedules, shall notify the owners of the date of the final~~ 2710
~~hearing by the board on the report of the engineer and on the~~ 2711
~~proceedings for the improvement, and shall notify all owners~~ 2712
~~that all claims for compensation or damages must be filed with~~ 2713
~~the clerk of the board of county commissioners before that date~~ 2714

~~fixed for the final hearing. The notice shall further state that~~ 2715
~~if bonds or notes are to be issued, the owner must give written~~ 2716
~~notice within twenty one days after the final hearing of~~ 2717
~~hisintention to pay in cash. The clerk shall include with the~~ 2718
~~legal notice to the owner a form prescribed by the board of~~ 2719
~~county commissioners that the owner shall use to notify the~~ 2720
~~board of hisintention to pay in cash. If hedoes not give notice~~ 2721
~~of hisintention to pay in cash within twenty one days, the~~ 2722
~~installments will be payable with the interest added at the same~~ 2723
~~rate that the bonds or notes bear interest.~~ 2724

Proof of notice by publication shall be verified by 2725
affidavit of the ~~printer or other person knowing that fact,~~ 2726
newspaper and the clerk of the board of county commissioners 2727
shall prepare a certificate showing the service of the notices 2728
by mail, both of which shall be filed with the clerk of the 2729
board of county commissioners on or before the day of the final 2730
hearing. ~~Notices~~ If any notices are returned undelivered, the 2731
clerk shall keep the returned undelivered notices and their 2732
receipts shall be kept on file as a permanent record of the 2733
improvement with the permanent file of records required under 2734
section 6131.061 of the Revised Code. 2735

Sec. 6131.17. ~~Any owner may accept the estimated~~ 2736
~~assessment as described in the engineer's schedules, or may~~ 2737
~~accept the estimated damages or compensation as described in the~~ 2738
~~engineer's schedule of damages, or may acquiesce to the~~ 2739
~~engineer's failure to estimate damages or award compensation in~~ 2740
~~hisfavor, and will be construed to have done so unless he files~~ 2741
(A) An owner may file an exception to the county engineer's 2742
schedules of assessments or files file a claim for damages or 2743
compensation, on or before the date of the final hearing in the 2744
proceedings to construct the improvement. 2745

~~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.~~ 2746
2747
2748
2749
2750
2751
2752
2753
2754

~~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.~~ 2755
2756
2757
2758
2759
2760
2761

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 hear any competent evidence offered by any of the interested owners affected owner upon the county engineer's estimate of damages and upon any claim filed for compensation or damages.~~ 2762
2763
2764
2765
2766
2767

~~(B) Upon consideration of all the evidence, including the county engineer's schedule of estimated damages, and a view of the premises affected property, if it the board desires such a view, the board shall find and determine the amount of damages to which any owner is entitled for each claim filed by an owner, and shall also determine the fair value of any land or any other property to be taken for said the proposed improvement. The~~ 2768
2769
2770
2771
2772
2773
2774

~~(C) If the board of county commissioners awards additional~~ 2775

~~compensation to any owner, the board shall enter its findings in
its journal, and shall authorize the county auditor to issue his
warrants upon the county treasurer of the county in which the
land is located, payable from the general drainage improvement
fund, to such claimants for such amounts, which amounts so
determined shall be paid before any work on the proposed
improvement is done order the county engineer to prepare new
assessments for the proposed improvement and the clerk of the
board shall notify all owners of the new assessments pursuant to
section 6131.16 of the Revised Code.~~ 2776
2777
2778
2779
2780
2781
2782
2783
2784
2785

~~(D) An owner may appeal may be taken by any claimant from
the an order of the board refusing the allowance of county
commissioners concerning a claim for compensation or damages,
and an appeal may be taken by any claimant from an order
allowing compensation or damages if, in his opinion, the amount
awarded is less than the actual damages sustained, or less than
the fair value of the land or other property necessary to be
taken. Such appeal shall be taken and perfected as provided in
sections 6131.01 to 6131.64, inclusive, of the Revised Code this
chapter.~~ 2786
2787
2788
2789
2790
2791
2792
2793
2794
2795

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~~ 2796
2797
2798
2799
2800
2801
2802
2803
2804
2805
2806

~~will be equal to or greater than the benefits that will be~~ 2807
~~derived therefrom if constructed, or if the board finds that the~~ 2808
~~improvement is not necessary, or if it finds that the~~ 2809
~~improvement will not be conducive to the public welfare, the~~ 2810
~~board shall set aside the former order finding in favor of the~~ 2811
~~improvement made by it at the first hearing and shall dismiss~~ 2812
~~the petition.~~ 2813

(B) In determining whether or not the improvement should 2814
be granted, the board shall consider the following factors: 2815

~~(A)~~ (1) The cost of location and construction; 2816

~~(B)~~ (2) The compensation for land or other property 2817
necessary to be taken; 2818

~~(C)~~ (3) The effect on land along or in the vicinity of the 2819
route of the improvement; 2820

~~(D)~~ (4) The effect on land below the lower terminus of the 2821
improvement that may be caused by constructing the improvement; 2822

~~(E)~~ (5) The sufficiency or insufficiency of the outlet; 2823

~~(F)~~ (6) The benefits to the public welfare; 2824

~~(G)~~ (7) The benefits to land, public corporations, and the 2825
state needing the improvement; 2826

~~(H)~~ (8) Any other proper matter that will assist ~~it~~ the 2827
board in finding for or against the improvement. 2828

(C) The board shall set aside the former order and dismiss 2829
the petition if the board finds any of the following: 2830

(1) That the cost of the improvement will be equal to or 2831
greater than the benefits that will be derived from the 2832
improvement if constructed; 2833

(2) That the improvement is not necessary; 2834

(3) That the improvement will not be conducive to the 2835
public welfare. 2836

(D) If the ~~petition is dismissed~~ board dismisses the 2837
petition for a proposed improvement at the final hearing, all 2838
costs for the proceedings, including the costs incurred by the 2839
engineer in making surveys, plans, reports, and schedules, may 2840
be distributed to the benefiting landowners in the same ratio as 2841
determined by the engineer in the final estimated assessments 2842
presented at the final hearing. ~~The board shall confirm or alter~~ 2843
~~the assessments as provided for in section 6131.22 of the~~ 2844
~~Revised Code. The approved assessments shall then be certified~~ 2845
~~to the county auditor to be administered pursuant to section~~ 2846
~~6131.49 of the Revised Code.~~ 2847

If the costs are not distributed to the benefiting 2848
landowners, they shall the costs must be paid from county funds. 2849

(E) The petitioner, or any owner in favor of the 2850
improvement, may appeal from the order of dismissal, as provided 2851
in section 6131.25 of the Revised Code. 2852

(F) An order issued by the board under this section is 2853
effective on the day of the hearing at which the board issued 2854
it. 2855

Sec. 6131.22. (A) At the final hearing on a proposed 2856
improvement, if the petition is not dismissed, the board of 2857
county commissioners shall hear any evidence offered for or 2858
against the assessment proposed to be levied against any owner 2859
or on any land as shown by the schedule of assessments filed by 2860
the county engineer and shall hear any competent evidence on the 2861
question of benefits. 2862

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

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

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

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

(5) An assessment ~~as is~~ found to benefit any ~~public corporation or political subdivision of the state~~ shall be assessed against the ~~public corporation or political subdivision~~ and shall be paid out of the general funds or motor vehicle revenues of the ~~public corporation or political subdivision of the state~~, except as otherwise provided by law. ~~The board shall approve and confirm~~

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

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

(2) Determine when the assessments ~~shall~~must be paid~~and~~
~~shall determine;~~ 2892
2893

(3) Determine whether bonds or notes ~~shall~~must be issued 2894
in anticipation of and payable out of the installments of 2895
assessments. 2896

(D) The board's board shall enter the orders approving the 2897
assessments~~and ordering,~~ the order requiring the engineer to 2898
receive bids, and any other orders made at ~~this~~the final 2899
hearing, ~~shall be entered on~~in its journal. The clerk of the 2900
board of county commissioners shall immediately transmit to the 2901
county auditor the schedules listing all assessments as approved 2902
by the board. 2903

(E) Any owner opposed to the granting of the petition, or 2904
any owner opposed to further proceedings in the improvement, or 2905
any owner who claims that the assessment levied against~~him~~the 2906
owner is excessive or is not in proportion to benefits, may 2907
appeal from any order made pursuant to this section, as provided 2908
in section 6131.25 of the Revised Code. 2909

(F) An order issued by the board under this section is 2910
effective on the day of the hearing at which the board issued 2911
it. 2912

Sec. 6131.23. (A) The assessments estimated in accordance 2913
with section 6131.14 of the Revised Code shall be payable in not 2914
less than two semiannual installments. At the time of the final 2915
hearing, in the order approving the levying of the assessments, 2916
the board of county commissioners shall determine how long a 2917
period of time, in semiannual installments, as taxes are paid, 2918
shall be given the owners of land benefited to pay the 2919
assessments that are made for an improvement and whether or not 2920

bonds or notes shall be issued and sold in anticipation of such 2921
payments. If bonds or notes are to be issued, the interest shall 2922
be added to the assessments. 2923

(B) If the estimated cost of the improvement does not 2924
exceed five hundred dollars, not more than two semiannual 2925
installments, as taxes are paid, shall be given to owners of 2926
lands benefited to pay the assessments that are made for the 2927
improvement. If the estimated cost of the improvement exceeds 2928
five hundred dollars, the board may determine the number of 2929
installments in which the assessments are to be paid. If any 2930
such assessment is twenty-five dollars or less, or whenever the 2931
unpaid balance of any such assessment is twenty-five dollars or 2932
less, the same shall be paid in full, and not in installments, 2933
at the time the first or next installment would otherwise become 2934
due. 2935

(C) When assessments are payable in installments and 2936
county general funds are used to pay for the improvement, the 2937
assessment shall not exceed thirty semiannual installments, ~~as~~ 2938
~~computed by the county auditor pursuant to section 6131.49 of~~ 2939
~~the Revised Code,~~ and shall be payable upon completion of the 2940
contract. 2941

(D) When assessments are made payable in installments and 2942
bonds or notes have been sold to pay for the improvement, 2943
interest shall be added to the installments of assessments at 2944
the same rate as is drawn by the bonds or notes issued to pay 2945
for the improvements. Any owner may pay the estimated 2946
assessments on the owner's land in cash within thirty days after 2947
the final hearing without paying any interest thereon. If the 2948
legislative authority of a political subdivision chooses to pay 2949
the assessments on all parcels within the subdivision, both 2950

public and private, in one installment, it shall pass a 2951
resolution so stating and shall send the resolution, or a copy 2952
thereof, to the board of county commissioners before making the 2953
payment. The legislative authority shall pay all subsequent 2954
maintenance assessments levied under section 6137.03 of the 2955
Revised Code if it chooses to pay the construction assessments 2956
on all parcels within the subdivision. 2957

(E) Bonds may be sold for any repayment period that the 2958
board of county commissioners may determine proper, not to 2959
exceed thirty semiannual installments, ~~except that for bonds~~ 2960
~~sold by a board of county commissioners for soil and water~~ 2961
~~conservation district improvements pursuant to section 940.33 of~~ 2962
~~the Revised Code, the repayment period shall not exceed thirty~~ 2963
~~semiannual installments.~~ 2964

Sec. 6131.24. (A) The board of county commissioners shall 2965
fix a date, time, and place at the final hearing for the county 2966
engineer to receive bids. The county engineer shall prepare the 2967
necessary bid documents and legal advertisements as provided in 2968
sections 307.87 and 307.88 of the Revised Code. 2969

(B) If an appeal has been taken to the court of common 2970
pleas, as provided in section 6131.25 of the Revised Code, the 2971
bids may be received and tabulated, but the bid guaranties with 2972
the bids shall immediately be returned to the bidders, and no 2973
further steps shall be taken on the bids. 2974

Sec. 6131.25. (A) Any affected owner may appeal to the 2975
court of common pleas within ~~twenty-one~~ thirty days of the date 2976
that any order was issued by the board of county commissioners, ~~as~~ 2977
~~provided in sections 6131.01 to 6131.64 of the Revised Code~~ 2978
under this chapter, and may appeal any one or more of the 2979
following questions: 2980

(A) <u>(1)</u> Is the improvement necessary?	2981
(B) <u>(2)</u> Will the improvement be conducive to the public welfare?	2982 2983
(C) <u>(3)</u> Is the cost of the improvement greater than the benefits conferred?	2984 2985
(D) <u>(4)</u> Is the route, termini, or mode of construction the best to accomplish the purpose of the improvement?	2986 2987
(E) <u>(5)</u> Are the assessments levied according to benefits?	2988
(F) <u>(6)</u> Is the award for compensation or damages just?	2989
<u>(B)</u> The appeal may be taken from any order affecting any part of the improvement as well as from any order affecting the entire improvement.	2990 2991 2992
Sec. 6131.27. If an appeal is perfected by filing the bond and statement provided in <u>filed pursuant to section 6131.26-6131.25</u> 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 with all the original papers in said proceedings. The clerk of the court of common pleas shall file such transcript and papers in the court of common pleas <u>the permanent files of records of the proceedings maintained by the board of county commissioners and county engineer as required under section 6131.061 of the Revised Code. The proceedings on appeal in the court of common pleas shall be styled, "In the matter of the appeal in county ditch or improvement No _____, petitioned for by _____"</u>	2993 2994 2995 2996 2997 2998 2999 3000 3001 3002 3003 3004 3005 3006 3007
Sec. 6131.28. Several owners may appeal from the orders in	3008

the same improvement ~~and file separate bonds and separate~~ 3009
~~statements stating the matters appealed.~~ If several owners 3010
appeal, only one transcript need be made by the clerk of the 3011
board of county commissioners. All the appeals shall be filed in 3012
one action in the court of common pleas, which court, on any 3013
appeal, may separate for hearing or trial the issues appealed to 3014
said court, and render its order, judgment, or decree upon the 3015
issues as the same are determined. The case on appeal shall be 3016
advanced, or tried as soon as the court can hear it. 3017

Sec. 6131.30. (A) The court of common pleas, on appeal, 3018
shall hear the matters appealed de novo. ~~The proceedings shall~~ 3019
~~be conducted under the rules of law and procedure for civil~~ 3020
~~cases. An appeal shall bring into the court all the owners who~~ 3021
~~in any way may be interested in or affected by the matter~~ 3022
~~appealed. The court, exercising equitable jurisdiction, shall~~ 3023
~~hear all matters appealed, except an appeal from an order~~ 3024
~~allowing or refusing to allow compensation or damages. The court~~ 3025
~~may view the premises the same as views in other civil cases and~~ 3026
~~shall make such judgment, order, or decree as is warranted by~~ 3027
~~the evidence. Any owner aggrieved by the judgment, order, or~~ 3028
~~decree may appeal for a review of the proceedings, the same as~~ 3029
~~in other civil cases. On appeal, the burden of proof shall be on~~ 3030
~~the owner having the affirmative of the proposition, who shall~~ 3031
~~have the opening and closing. The court, exercising equitable~~ 3032
jurisdiction, shall bring the entire proceedings before it in 3033
order to determine all the issues raised in the proceedings and 3034
enter a final judgment, order, or decree for or against the 3035
improvement petitioned for and for or against the assessments to 3036
be levied and the compensation and damages to be paid. 3037

(B) If the court orders the county engineer to make a 3038
survey and file ~~his~~ the engineer's reports, plans, and 3039

schedules, the court also shall enter an order for transfer from 3040
the general revenue funds of the county to the general drainage 3041
improvement fund a sum of not more than twenty-five per cent of 3042
the engineer's preliminary estimate. 3043

~~The court of common pleas may appoint a board of 3044
arbitrators to assume the duties of the judge. The board shall 3045
be comprised of three disinterested persons chosen by the judge, 3046
who shall designate one of the persons to be chairman. A 3047
decision of the board shall require approval of a majority of 3048
the members. Either party may appeal the board's decision to the 3049
court of common pleas, which shall decide the case on the record 3050
of arbitration. 3051~~

Sec. 6131.32. On appeal from an order made by the board of 3052
county commissioners allowing or refusing to allow compensation 3053
or damages, the owners interested shall have the right of trial 3054
by jury. ~~The issues shall be made by the application or claim 3055
filed with the clerk of the board of county commissioners for 3056
compensation or damages, and the statements in such applications 3057
shall be deemed denied. The claimant for compensation or damages 3058
shall have the affirmative and shall have the opening and 3059
closing of the trial. The case shall proceed pursuant to the law 3060
and the rules governing civil procedure, with the same rights 3061
for motions for new trial and the right of appeal as in other 3062
civil cases. The jury may view the premises, as in other civil 3063
cases. Just compensation or damages shall be awarded, as 3064
provided in the Ohio constitution. 3065~~

Sec. 6131.33. ~~The jury authorized by section 6131.32 of 3066
the Revised Code, upon submission of the case to it under proper 3067
charge of the court of common pleas, and upon a form of verdict 3068
provided by the court, shall return its verdict determining the 3069~~

~~matter in issue, upon which verdict a judgment shall be entered-~~ 3070
~~by the court as in other civil cases. The verdict shall be-~~ 3071
~~signed by the jury. Nine or more of the jurors must concur in a~~ 3072
~~verdict.~~ If there is more than one appellant in a trial by jury 3073
authorized under section 6131.32 of the Revised Code with 3074
separate claims on the question of ~~allowance or compensation or~~ 3075
~~damages, or the refusal to allow compensation or damages,~~ or if 3076
there are issues as to different properties, the court may 3077
submit all the several claims and issues to the same jury, with 3078
appropriate verdicts as to each claim, ~~or it~~. The court also 3079
may direct separate trials for the separate claims and issues, ~~-~~ 3080
~~or any one or more of them. In said proceedings the~~. The court 3081
shall instruct the jury shall be instructed that in its verdict- 3082
~~for compensation for land taken or for damages to any land by an~~ 3083
~~improvement~~ it shall not consider or deduct the value of any 3084
benefits that such land will receive from the construction of 3085
such improvement. 3086

Sec. 6131.34. ~~The court of common pleas shall receive the~~ 3087
~~verdict referred to in section 6131.33 of the Revised Code, and~~ 3088
~~if no motion for new trial thereof is filed within three days,~~ 3089
~~which motion may be filed as in other civil cases and for like~~ 3090
~~causes, or if such motion for a new trial is overruled, it shall~~ 3091
~~render judgment according to said verdict, and for or against-~~ 3092
~~the owners, separately, if there is more than one. The court-~~ 3093
~~shall tax the costs of appeal, including jury fees, in favor of-~~ 3094
~~the prevailing party, and where two or more appeals are tried-~~ 3095
~~together the court shall divide the costs as is equitable.~~ 3096
If the appellants, on claims for compensation or damages, do not 3097
recover a judgment for more than the amount of compensation or 3098
damages awarded by the board of county commissioners, the costs 3099
on the hearing as to compensation or damages on appeal shall be 3100

taxed against the appellants. If the amount recovered is greater 3101
than the amount awarded by the board, the costs shall be taxed 3102
against the county. 3103

The prosecuting attorney shall represent the county in all 3104
appeals on questions of compensation or damages. On appeals of 3105
other matters which are tried to the court sitting as a court of 3106
equity, the court shall adjudge the costs as it deems just and 3107
equitable except as otherwise provided in section 6131.01 to 3108
6131.64, inclusive, of the Revised Code. 3109

Sec. 6131.36. (A) After the final judgment, order, or 3110
decree upon any appeal is rendered by the court of common pleas, 3111
the clerk of the court of common pleas shall, within twenty-one 3112
days, make a transcript of the same and shall certify and 3113
transmit it with all original papers in the case to the clerk of 3114
the board of county commissioners, who shall forthwith enter the 3115
judgment, order, or decree upon the journal of the board. If the 3116
judgment, order, or decree is in favor of the granting of the 3117
improvement, the board shall proceed with the improvement 3118
proceedings in compliance with the final judgment, order, or 3119
decree from the point at which they were terminated by the 3120
appeal or from the point at which the court orders the board to 3121
proceed. 3122

(B) Upon the expiration of the twenty-one day appeal 3123
period provided in section 6131.25 of the Revised Code, the 3124
clerk of the board of county commissioners shall transmit the 3125
schedules of assessments and damages to the county auditor. The 3126
board of county commissioners and the county engineer shall 3127
proceed with letting contracts and constructing the improvement, 3128
and the county auditor shall proceed to levy and collect 3129
assessments and to pay compensation and damages as if no appeal 3130

had been taken. If an appeal is ~~perfected to the court of~~ 3131
~~appeals and a supersedeas bond is given~~ filed pursuant to 3132
section 6131.25 of the Revised Code, the board and the engineer 3133
shall stay their proceedings until the final determination of 3134
the proceedings in the court of appeals or in the supreme court. 3135

Sec. 6131.42. ~~Any owner who has suffered any loss or~~ 3136
~~damage by reason of the failure of the contractor to perform his~~ 3137
~~contract, or by his negligence in performing the contract, may~~ 3138
~~bring suit against the contractor and his bondsmen to recover the~~ 3139
~~damages so sustained. Two or more owners who are assessed for~~ 3140
~~the construction of the improvement may in one suit bring an~~ 3141
~~action against the contractor and his bondsmen to recover the~~ 3142
~~damages which may be sustained by all the plaintiffs by reason~~ 3143
~~of the failure of the contractor to construct the improvement~~ 3144
~~according to the contract.~~ 3145

~~When two or more owners join in one suit in an action for~~ 3146
~~damage against the contractor, the jury in one verdict shall~~ 3147
~~find the damages suffered by all the plaintiffs. The court shall~~ 3148
~~enter judgment on the verdict in favor of the plaintiffs for the~~ 3149
~~amount of damages, as found by the jury, and shall at the time~~ 3150
~~of entering the judgment find what part of said judgment should~~ 3151
~~be paid to each of the plaintiffs respectively, and shall order~~ 3152
~~the clerk to the court to pay to each of said plaintiffs the~~ 3153
~~part of said judgment as found by the court when said judgment~~ 3154
~~is paid. Any owner who is assessed for the construction of any~~ 3155
improvement may bring an action to enjoin the payment of any 3156
money owed a contractor who has not constructed the work 3157
according to the contract and specifications until the 3158
contractor has constructed the improvement according to the 3159
contract and specifications. The remedies provided in this 3160
section are in addition to all other remedies provided by law. 3161

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

(B) The auditor shall notify the owners of all assessed lands of the amount of the actual assessment, which shall be not less than ten dollars, and of the payment plan for the collection of the assessments. The auditor shall immediately place the assessments so levied upon the duplicates of the county, and the assessments shall be a lien upon the several parcels of land respectively from and after the date of the order of the board approving and levying the assessments. The auditor shall be liable on ~~his~~ the auditor's bond for any damages sustained by any person by reason of the auditor's failure to place promptly the assessments upon the proper duplicates of the county.

(C) The county auditor shall transmit to the governing body of any ~~public corporation~~ political subdivision affected by an improvement the assessments levied against it. The governing body shall authorize payment to be made to the county treasurer of the county in which the improvement is located from the general fund of the ~~public corporation~~ political subdivision,

except as otherwise provided by law. 3193

(D) The county auditor shall also transmit to the director 3194
of any department, office, or institution of the state, affected 3195
by an improvement the assessments levied against any department, 3196
office, or institution of the state. Payment shall be made to 3197
the county treasurer of the county in which the improvement is 3198
located from the drainage assessment fund in the manner provided 3199
by section 6133.15 of the Revised Code. In presenting their 3200
proposed expenses to the director of budget and management 3201
pursuant to section 126.02 of the Revised Code, the directors of 3202
all departments, offices, or institutions of the state shall 3203
list all unpaid assessments received before the first day of 3204
October of the year preceding the first regular session of the 3205
general assembly for the state's proportionate share of the cost 3206
of any improvement authorized or constructed under ~~sections-~~ 3207
~~6131.01 to 6131.64, 6133.10 to 6133.15, and 6135.01 to 6135.27-~~ 3208
this chapter and Chapters 6133. and 6135. of the Revised Code 3209
and all unpaid assessments for maintenance as provided by 3210
~~sections 6137.01 to 6137.14 Chapter 6137.~~ of the Revised Code. 3211
The assessments so listed shall be included in the state budget 3212
estimates of revenues and expenditures for each state fund and 3213
budget estimates for each state agency prepared and submitted to 3214
the governor under section 126.02 of the Revised Code. 3215

Sec. 6131.47. ~~During the execution of the work on an-~~ 3216
~~improvement, the county engineer shall cause notice to be given-~~ 3217
~~to the owner within seven days in advance of removal or-~~ 3218
~~alteration of a culvert, bridge, fence, or floodgate, where the-~~ 3219
~~removal or alteration is necessary to the progress of the work-~~ 3220
~~of the improvement, to remove or make such alteration as the-~~ 3221
~~engineer finds necessary.~~ 3222

~~During the formulation of the plans, the~~ (A) The county 3223
engineer shall evaluate all culverts and bridges, except those 3224
on state and federal highways, for adequacy of capacity, 3225
vertical and horizontal alignment, and stability. ~~Any~~ The county 3226
engineer shall schedule any bridge or culvert found not 3227
~~conforming that does not conform~~ with the design of the drainage 3228
improvement ~~shall be scheduled for removal and replacement or~~ 3229
repair as the engineer considers necessary. 3230

~~(B) If, in the judgment of the county engineer,~~ determines 3231
that the culverts and bridges were adequate in capacity or 3232
vertical and horizontal alignment at the time of their 3233
installation, the removal and replacement ~~with a comparable,~~ 3234
~~adequate culvert or bridge~~ shall be made at the expense of the 3235
project less any costs, which shall be apportioned by the 3236
engineer, for correction, maintenance, or replacement of the 3237
culvert or bridge in whole or in part due to deterioration or 3238
instability had the structure been left in place. The latter 3239
costs shall be specially assessed to the owner. 3240

~~Any~~ (C) The county engineer shall schedule in the project 3241
plans any culvert or bridge, except those on state and federal 3242
highways, that is washed out in whole or part, but that 3243
otherwise ~~meeting~~ meets the requirements of the drainage 3244
improvement, ~~shall be scheduled in the project plans for such~~ 3245
repairs, additions, or other corrective measures ~~as in the~~ 3246
~~opinion of the engineer are necessary to the preservation of~~ 3247
preserve the bridge or culvert, ~~the~~. The costs of which shall 3248
be assessed to the appropriate owner ~~for reasons that the~~ 3249
~~culvert or bridge was improperly designed and constructed.~~ 3250

(D) Fences and floodgates impeding the flow of water shall 3251
be removed as a part of the drainage improvement. Replacement 3252

may be made by the owner, provided that prior written approval 3253
is obtained from the county engineer. 3254

(E) The county engineer shall cause notice to be given to 3255
the owner not later than seven days in advance of removal or 3256
alteration of a culvert, bridge, fence, or floodgate. 3257

(F) Any owner may furnish the work and material in lieu of 3258
a special assessment, provided ~~he makes~~ the owner does all of 3259
the following: 3260

(1) Makes written application to the county engineer 3261
within ten ~~calendar~~ days after the final hearing, ~~furnishes;~~ 3262

(2) Furnishes the work and materials in accordance with 3263
the specifications for the improvement, ~~performs same;~~ 3264

(3) Performs the work so as not to delay the project 3265
contractor, ~~and completes;~~ 3266

(4) Completes the work prior to the completion of the work 3267
on the whole improvement. 3268

~~Should~~ (G) If the owner default defaults on any or all of 3269
these conditions, the county engineer shall recommend to the 3270
board of county commissioners that the default be completed by 3271
an extra work order to the project contractor and its cost 3272
assessed to the owner. 3273

Sec. 6131.50. (A) The board of county commissioners of 3274
each county ~~shall~~ may provide and establish the "general 3275
drainage improvement fund," ~~which fund shall to~~ be used as a 3276
sinking fund for all bonds issued under sections 6131.01 to 3277
6131.64, inclusive, of the Revised Code. ~~Said~~ 3278

(B) The fund shall may consist of any of the following: 3279

~~(A)~~ (1) Any taxes levied and collected for ditch and 3280
drainage purposes under county levies, not by law otherwise 3281
disposed of; 3282

~~(B)~~ (2) The proceeds of all bonds issued and sold under 3283
sections 6131.01 to 6131.64, inclusive, of the Revised Code; 3284

~~(C)~~ (3) The collections from all special assessments for 3285
benefits to property, as provided in such sections; 3286

~~(D)~~ (4) Such other funds as by law are provided to be paid 3287
therein. 3288

Sec. 6131.51. (A) All costs and expenses of improvements 3289
under ~~sections 6131.01 to 6131.64 of the Revised Code~~ this 3290
chapter, including contract prices of construction and the costs 3291
of locating the improvement, ~~shall~~ may be paid from the general 3292
drainage improvement fund. ~~No warrants shall be drawn to be paid~~ 3293
~~from the fund unless it contains a sufficient amount not~~ 3294
~~otherwise specifically appropriated to pay them.~~ 3295

(B) The letting and approving of any contract for an 3296
improvement shall be considered a specific appropriation of the 3297
amount of the obligation, and that amount shall be set apart for 3298
the purpose of the payment and contingently charged against the 3299
fund. If at any time the fund contains the proceeds of bonds or 3300
notes issued and sold under such sections, the fund shall not be 3301
depleted below the obligations incurred by the bond or note 3302
issue unless assessments or levies have been made or ordered 3303
made in sufficient amount to redeem the bonds or notes as they 3304
fall due. If at any time obligations legally incurred exceed the 3305
amount of the drainage improvement fund, an amount of the 3306
general revenue funds in the county treasury equal to the 3307
deficiency, unless otherwise appropriated, may by resolution of 3308

the board of county commissioners be transferred to the general 3309
drainage improvement fund. 3310

(C) At any time after assessments collected for a drainage 3311
improvement exceed the amount allocated to the board for 3312
engineering expenses, the board of county commissioners may by 3313
resolution transfer from the drainage improvement fund to the 3314
general revenue fund of the county an amount equal to that 3315
amount as reimbursement of the sum previously transferred under 3316
section 6131.12 or 6131.30 of the Revised Code. 3317

Sec. 6131.52. ~~The~~ (A) If necessary, the board of county 3318
commissioners, ~~at its each March session, annually,~~ shall, ~~if~~ 3319
~~necessary,~~ levy upon the grand duplicate of the county a tax, 3320
not to exceed five-tenths of one mill on the dollar, that is 3321
sufficient to pay for the location and construction of the 3322
portions of the respective improvements located by ~~it~~ the board 3323
or for which the county has been assessed under ~~sections 6131.01-~~ 3324
~~to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, or 6137.01-~~ 3325
~~to 6137.14~~ this chapter or Chapter 6133., 6135., or 6137. of the 3326
Revised Code, ~~which tax, when~~ . When collected, the tax shall be 3327
credited to the general drainage improvement fund. 3328

(B) For the purposes of ~~sections 6131.01 to 6131.64,~~ 3329
~~6133.01 to 6133.13, 6135.01 to 6135.25, and 6137.01 to 6137.14-~~ 3330
this chapter and Chapters 6133., 6135., and 6137. of the Revised 3331
Code, the board of county commissioners may levy a tax under 3332
division (X) of section 5705.19 of the Revised Code upon all of 3333
the property listed and assessed for taxation in the county. In 3334
addition to the actions required under section 5705.19 of the 3335
Revised Code, the board shall cause to be filed with the county 3336
auditor and the board of elections of the county, at least sixty 3337
days prior to the passage of the resolution required under that 3338

section, an accurate map showing the locations and types of any 3339
proposed improvements, the areas to be benefited, and the 3340
existing system of drainage improvements that is to be 3341
maintained from the proceeds of the levy. 3342

Any funds collected as a result of such a levy ~~shall~~ may 3343
be credited to the general drainage improvement fund of the 3344
county in which the tax is levied. 3345

(C) For the purposes of ~~sections 6131.01 to 6131.64,~~ 3346
~~6133.01 to 6133.13, 6135.01 to 6135.25, and 6137.01 to 6137.14~~ 3347
this chapter and Chapters 6133., 6135., and 6137. of the Revised 3348
Code, the board of county commissioners may adopt a resolution 3349
designating any portion of the county as a drainage improvement 3350
district. If a copy of the resolution and a map or legal 3351
description of the district's boundaries have been filed with 3352
the county auditor in such form as the county auditor 3353
prescribes, the board may levy a tax within the district under 3354
division (X) of section 5705.19 of the Revised Code. The board 3355
shall base its designation on the location of a system of 3356
drainage improvements and on the areas to be benefited by that 3357
system. The proceeds of the levy shall only be used for the 3358
construction and maintenance of the system of drainage 3359
improvements within the drainage improvement district. 3360

For the purposes of this section, the board of county 3361
commissioners is constituted the "taxing authority" and the 3362
county auditor is the "fiscal officer," within the purview of 3363
Chapter 5705. of the Revised Code. 3364

Sec. 6131.55. (A) Any owner of land affected by an 3365
improvement who has not received notice thereof and has not had 3366
an opportunity to be heard as provided in ~~sections 6131.01 to~~ 3367
~~6131.64, 6133.01 to 6133.11, or 6135.01 to 6135.27~~ this chapter 3368

~~or Chapter 6133., 6135., or 6137. of the Revised Code may bring an action in the court of common pleas of the county wherein his the owner's land is located, against the board of county commissioners in its official capacity, to recover any tax or assessment therefor, if paid, to enjoin any tax, assessment, or levy therefor upon his the owner's lands, to recover for any damages sustained, or for compensation for any property taken. The owner's rights and remedies in the action shall be the same as for any like demand. In the action the~~

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

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

Sec. 6131.60. If one or more members of a board of county commissioners are petitioners for an improvement or own land that will be taken, benefited, or damaged by the improvement petitioned for, the clerk of the board of county commissioners shall notify the judge of the court of common pleas of the county who shall within ten days appoint as many disinterested ~~freeholders~~ owners of the county as are necessary to take the place of the interested members. ~~The appointees shall not be related by blood or affinity to the interested members. They shall before acting be sworn to perform faithfully and impartially the duties of the members in the matter of the improvement, which oath shall be signed by them and by the officer before whom the same is taken and filed with the clerk. Upon appointment and qualification the appointee~~ The appointees shall, in the proceedings upon the improvement, perform all the duties of the disqualified members and shall may receive from the general drainage improvement fund the same per diem rate as

~~the disqualified member receives, as shown by the record for~~ 3399
~~such services, and the amount so paid shall be costs taxed in~~ 3400
~~the proceedings members receive.~~ 3401

Sec. 6131.63. ~~Except when an owner whose land is used for~~ 3402
~~agricultural purposes desires to install tile by extending or~~ 3403
~~adding to his own laterals or desires to expel water therefrom~~ 3404
~~into an open ditch on his own land in the same watershed, when~~ 3405
(A) When one or more owners desire to join in the construction 3406
~~of an improvement that will benefit the land of the owners, and~~ 3407
~~when the owners are willing to construct the and pay the costs~~ 3408
of a drainage improvement and pay the cost thereof that will 3409
benefit the land of the owners, they may enter into a written 3410
agreement for the construction of the improvement, ~~or they may~~ 3411
~~enter into an agreement to construct such which may include each~~ 3412
owner constructing part of the improvement as a person mutually 3413
~~agreed upon apportions to each of them respectively. In the~~ 3414
~~agreement the owners shall provide that~~ 3415

(B) The owners shall file the agreement and the plan and 3416
schedules for construction of the proposed improvement shall be 3417
~~filed with the clerk of the board of county commissioners of the~~ 3418
~~county in which the improvement is to be constructed. When the~~ 3419
~~agreement and schedules are so signed, the plan is approved by a~~ 3420
~~professional engineer registered in this state, and the~~ 3421
~~agreement, schedules, and plan are filed with the clerk of the~~ 3422
~~board of county commissioners, the~~ The clerk shall immediately 3423
~~refer submit~~ the agreement, plan, and schedules to the county 3424
engineer for examination and review. 3425

(C) The county engineer shall determine the adequacy of 3426
the plan and schedules and the effect of the proposed 3427
improvement on any other improvements and on any highways in the 3428

area affected. 3429

(D) The county engineer shall also prepare a schedule of 3430
proposed assessments for the maintenance of the improvement 3431
according to an estimate of benefits accruing to each owner and 3432
an estimate of maintenance costs including the engineer's costs 3433
in preparing the schedules. ~~The board shall pay the engineer's~~ 3434
~~costs out of the county general fund.~~ 3435

(E) The engineer shall file with the clerk of the board of 3436
county commissioners, within sixty days, a report of ~~his~~ the 3437
engineer's review together with such recommendations for change, 3438
amendment, or alteration of the agreement, plan, and schedules 3439
~~as he may determine to be necessary in the public interest.~~ 3440

(F) When the agreement, plan, and schedules, as presented 3441
or as amended by the owners pursuant to the county engineer's 3442
recommendations, are approved by the county engineer, the 3443
engineer shall file, within sixty days, a certificate of 3444
approval with the clerk of the board of county commissioners. 3445
Failure to file a certificate of approval within sixty days 3446
constitutes a presumption of certification and the owners may 3447
proceed to construct. 3448

~~Upon the filing with the clerk of the board of county~~ 3449
~~commissioners of the schedule of maintenance assessments~~ 3450
~~prepared by the county engineer as provided by this section,~~ 3451
~~together with his certificate of approval, the~~ 3452

(G) The board shall ~~proceed to~~ set a hearing date on the 3453
engineer's proposed maintenance assessments for the drainage 3454
improvement not less than twenty-five nor more than ninety days 3455
~~thereafter~~ after the engineer files a certificate of approval 3456
and shall notify all persons whose names appear in the 3457

engineer's schedule of maintenance assessments in accordance 3458
with section 6131.16 of the Revised Code. At the hearing on the 3459
proposed assessments the board of county commissioners shall 3460
hear any evidence offered for or against the assessments 3461
proposed to be levied against any owner as shown by the schedule 3462
of assessments filed by the county engineer and shall hear any 3463
competent evidence on the question of benefits. 3464

(H) The board, from the evidence offered, may amend and 3465
correct the assessments, and the assessments so amended or 3466
corrected shall be approved by the board and the approval 3467
entered on its journal. Once the assessments have been approved, 3468
all further proceedings in connection with the maintenance of 3469
the improvement shall be in accordance with Chapter 6137. of the 3470
Revised Code. 3471

(I) The clerk shall record the agreement, plan, and 3472
schedules in the drainage records of the county, and the 3473
agreement shall locate and establish the improvement as a ~~public~~ 3474
~~watercourse~~ drainage improvement. The improvement shall then be 3475
constructed by the owner in accordance with the approved plans. 3476

(J) This section shall not be interpreted to include 3477
improvements or changes in stream channels that may be made by 3478
the department of transportation or other public agencies or 3479
railroads at their own expense for the purpose of providing a 3480
more adequate waterway along a highway or at the site of a 3481
bridge or culvert or to improve conditions of flow through them 3482
or for the purpose of protecting the highway or road bed and 3483
that do not limit future deepening of the channel. 3484

Sec. 6131.631. (A) When construction of a new single span 3485
bridge or culvert or extension of an existing culvert that will 3486
limit the future deepening of a public watercourse is 3487

contemplated in connection with the construction of a state 3488
highway or other public improvement, the director of 3489
transportation or other public agency proposing the construction 3490
shall file plans for the construction with the clerk of the 3491
board of county commissioners of the county in which the 3492
construction or improvement is to be constructed, ~~who~~. 3493

(B) The clerk shall immediately refer the plans to the 3494
county engineer ~~for examination and review~~. 3495

~~The county engineer who~~ shall review the proposed 3496
location, both horizontal and vertical, of the proposed 3497
structures and the effect of the proposed improvements on any 3498
other improvements and on any highways in the area. 3499

(C) The county engineer shall file, within sixty days, 3500
with the clerk of the board of county commissioners and the 3501
director of transportation or other public agency a report of 3502
the review with such recommendations for change, amendment, or 3503
alteration in the plans for the proposed improvement as the 3504
engineer may determine to be necessary in the public interest. 3505

(D) When the plans for the proposed improvements as 3506
presented, or as amended pursuant to the county engineer's 3507
recommendations, are approved by the county engineer, the 3508
engineer shall file, within sixty days, a certificate of 3509
approval with the clerk of the board of county commissioners. If 3510
the engineer does not file such a report of ~~his~~ the engineer's 3511
review with the clerk within sixty days after the date that the 3512
plans were referred to ~~him~~ the engineer, the engineer's approval 3513
shall be presumed by the clerk. 3514

(E) The improvement shall then be constructed in 3515
accordance with the approved plans at the expense of the 3516

department of transportation or other public agency. 3517

Sec. 6131.64. (A) Upon a petition being filed and a bond 3518
given as provided for the location and construction of an 3519
improvement, and upon the same proceedings with notice to 3520
interested parties for a hearing upon the petition, and with the 3521
same hearing as is provided for the location of an improvement, 3522
the board of county commissioners may determine whether any 3523
ditch or drain described in the petition has ceased to be a 3524
public utility, whether the public welfare no longer demands the 3525
maintenance thereof, and whether its vacation will be to the 3526
advantage of the public welfare. 3527

(B) If the board finds that the vacation of the ditch or 3528
drain will be conducive to the public welfare, it may declare 3529
the same to be vacated and abandoned as a public ditch or drain 3530
and its location and establishment held for naught. The private 3531
rights of persons acquired by reason of the location and 3532
establishment of the ditch or drain shall not be interfered with 3533
nor impaired ~~thereby~~ without due compensation being made 3534
~~therefor~~, which compensation may be assessed on property that is 3535
benefited by the vacation of the ditch or drain. 3536

(C) All proceedings relating to the vacation of a ditch or 3537
drain shall be conducted in accordance with ~~sections 6131.01 to~~ 3538
~~6131.64 of the Revised Code~~ this chapter, with all rights of 3539
appeal as provided in such sections. 3540

Sec. 6133.01. As used in ~~sections 6133.01 to 6133.11,~~ 3541
~~6133.14, and 6133.15 of the Revised Code,~~ "owner," this chapter: 3542

(A) "Owner," "person," "public corporation," "land," 3543
"benefit," and "improvement" have the meaning set forth same 3544
meanings as in section 6131.01 of the Revised Code. 3545

(B) "Lead county" means the county in which the majority 3546
of the initial length of a joint county drainage improvement 3547
would be located, as specified in an original petition filed 3548
under section 6133.02 of the Revised Code. 3549

Sec. 6133.02. (A) When an improvement is proposed to be 3550
located in or benefits or damages land in two or more counties, 3551
the proceeding shall be conducted by a joint board of county 3552
commissioners consisting of the members of the boards of county 3553
commissioners of the several counties in which land may be 3554
benefited or damaged by the proposed improvement. ~~In such case,~~ 3555
~~the~~ 3556

(B) The petition for ~~the~~ a joint county drainage 3557
improvement shall be filed with the clerk of the board of county 3558
commissioners of the lead county ~~in which the majority of the~~ 3559
~~proposed improvement is located.~~ 3560

Sec. 6133.03. (A) A joint board of county commissioners 3561
may do all the things that a board of county commissioners may 3562
do in a single county improvement, and shall be governed by and 3563
be subject to sections 6131.01 to 6131.64 of the Revised Code, 3564
relating to single county ditches insofar as applicable. ~~The~~ 3565
~~proceedings~~ 3566

(B) Except as otherwise provided for in this chapter, a 3567
petition for a joint county improvement shall proceed before the 3568
joint board of county commissioners the same as if the joint 3569
board were a board of county commissioners representing a county 3570
that included all the territory of all the counties represented 3571
by the commissioners on the joint board, except as otherwise 3572
modified in accordance with this chapter. ~~The~~ 3573

(C) The cost of a joint county improvement shall be paid 3574

by the counties affected by such improvement, in proportion to 3575
their total ~~ditch-drainage~~ assessments, or as otherwise 3576
apportioned by the joint board, for such improvement. To meet 3577
its portion of such cost, a board of county commissioners may 3578
borrow such sums of money as are apportioned to the county, and 3579
may issue and sell the bonds of the county to secure the payment 3580
of the principal and interest of the sum borrowed. Such 3581
principal and interest shall be paid as provided in section 3582
133.26 of the Revised Code. ~~All rights of appeal, and all other-~~ 3583
~~rights or remedies as provided in sections 6131.01 to 6131.64 of-~~ 3584
~~the Revised Code, apply to joint county improvements. All-~~ 3585
~~officers doing any acts or making any findings for or against-~~ 3586
~~such improvement shall perform all the duties required of them-~~ 3587
~~under such sections.~~ 3588

(D) All owners affected by the proceedings for a joint 3589
county improvement shall have all the rights and remedies given 3590
them in the case of single county improvements. ~~The proceedings-~~ 3591
~~in joint county improvements shall be the same as the-~~ 3592
~~proceedings in single county improvements except as modified in-~~ 3593
~~sections 6133.02 to 6133.11 of the Revised Code.~~ All rights of 3594
appeal and all other rights or remedies as provided in Chapter 3595
6131. of the Revised Code apply to joint county improvements. 3596

Sec. 6133.04. (A) On the date fixed by the clerk of the 3597
board of county commissioners with whom the petition was filed, 3598
the board of county commissioners from each of the counties 3599
affected by a proposed joint county improvement shall meet ~~in-~~ 3600
~~the county in which the petition is filed~~ and organize a joint 3601
board of county commissioners by electing one of their number 3602
president. ~~The~~ 3603

(B) The clerk of the board of county commissioners of the 3604

lead county in which the petition is filed shall act as clerk 3605
and administrator of the joint board and shall enter the 3606
findings of the joint board in the journal of the board of 3607
county commissioners of ~~his~~ the clerk's county, shall do all 3608
things required to be done by the clerk, and shall make the 3609
final record of the improvement in ~~his~~ the clerk's county. The 3610
clerk shall ~~file certified~~ provide copies of all proceedings 3611
with the clerks of the boards of all affected counties. ~~A~~ 3612

(C) A majority of the county commissioners constituting 3613
the joint board shall constitute a quorum. All decisions of the 3614
joint board shall be made by a vote of a majority of the county 3615
commissioners constituting the joint board. ~~The~~ 3616

(D) The director of ~~the department of~~ natural resources 3617
shall be a member ex officio of the joint board and may 3618
participate, either in person or through a designated 3619
representative, in deliberations and proceedings of the joint 3620
board but shall have no vote except in case of a tie, in which 3621
case the proceedings shall be adjourned for thirty days, during 3622
which time the director shall review the proceedings and cast 3623
the deciding vote. The vote shall be recorded in the journal. 3624
~~After~~ 3625

(E) After the view of ~~the~~ a proposed improvement by the 3626
joint board of county commissioners, all hearings shall be held 3627
in the lead county in which the petition is filed unless a 3628
majority of the joint board of county commissioners agree to an 3629
alternative location. 3630

(F) When the joint board of county commissioners is 3631
formed, the joint board of county commissioners shall be 3632
administered by the lead county's elected officials, including 3633
the lead county's county engineer, county recorder, county 3634

auditor, county prosecutor, common pleas judges, county 3635
treasurer, and clerk of the board of county commissioners. 3636

Sec. 6133.041. (A) Notwithstanding any other provision of 3637
this chapter or Chapter 6131. of the Revised Code to the 3638
contrary, a joint board of county commissioners, when 3639
practicable, may conduct ~~proceedings regarding existing~~ 3640
~~improvements meetings~~ by video conference or, if video 3641
conference is not available, by teleconference. The joint board 3642
of county commissioners shall make provisions for public 3643
attendance at any location involved in such a ~~proceeding~~ 3644
~~meeting~~. The ~~participation of any commissioner or board of~~ 3645
~~county commissioners in a video conference or teleconference~~ 3646
~~shall occur at the location of the commissioners' main office or~~ 3647
~~board room~~ joint board shall establish the joint board's main 3648
office or board room as the primary meeting location for the 3649
video conference or teleconference. The conference shall be held 3650
at that location in an open meeting at which the public is 3651
allowed to attend. 3652

(B) Before convening a meeting of a joint board of county 3653
commissioners by video conference or by teleconference, 3654
designated staff shall send, via electronic mail, facsimile, or 3655
United States postal service, a copy of meeting-related 3656
documents to each member of the joint board. 3657

(C) The minutes of each joint county ~~ditch-drainage~~ 3658
improvement meeting shall specify who was attending by 3659
teleconference, who was attending by video conference, and who 3660
was physically present. Any vote taken in a meeting held by 3661
teleconference that is not unanimous shall be recorded as a roll 3662
call vote. 3663

(D) Nothing in section 121.22 of the Revised Code 3664

prohibits a joint board of county commissioners from conducting 3665
a ~~proceeding meeting~~ in a manner authorized by this section. 3666

Sec. 6133.05. ~~In the matter of an improvement under~~ 3667
~~sections 6133.02 to 6133.11 of the Revised Code, there shall be~~ 3668
~~included as a portion of the costs and expenses to be paid by~~ 3669
~~the petitioners, if the petition authorized by section 6133.02~~ 3670
~~of the Revised Code is dismissed, or assessed to them as a part~~ 3671
~~of the costs, if the petition is granted, the~~ (A) As used in 3672
this section, "actual expenses" means the actual expenses of the 3673
members of the joint board of county commissioners for the 3674
performance of their duties at places other than in their own 3675
county . 3676

(B) If a petition filed under section 6133.02 of the 3677
Revised Code is dismissed, the actual expenses shall be paid by 3678
the petitioners. 3679

(C) If a petition filed under section 6133.02 of the 3680
Revised Code is granted, the actual expenses shall be included 3681
in the costs of the project. 3682

Sec. 6133.06. (A) Upon the filing of the a petition 3683
~~authorized by under~~ section 6133.02 of the Revised Code, the 3684
clerk of the board of county commissioners ~~with whom the~~ 3685
~~petition is filed of the lead county~~ shall call a joint meeting 3686
of the boards of county commissioners of all ~~the affected~~ 3687
counties ~~interested~~ to be held at a designated place in the 3688
~~county in which the petition is filed~~ affected area at a date 3689
not more than thirty days after the filing of the petition for 3690
the purpose of organizing the joint board. ~~The~~ 3691

(B) The clerk of the lead county shall give notice of the 3692
filing of the petition and of the meeting to the board of ~~his~~ 3693

the clerk's county and shall mail the notice together with a 3694
copy of the petition to the clerks of the boards of the county 3695
commissioners of the other counties interested who shall 3696
immediately notify the boards of their counties of the filing of 3697
the petition and of the date fixed for the meeting of the joint 3698
board. ~~All applications, remonstrances, claims for compensation-~~ 3699
~~or damages, reports, schedules, certificates, statements,~~ 3700
~~contracts, bonds, and other papers shall be filed with the clerk-~~ 3701
~~with whom the petition is filed.~~ 3702

(C) The clerk of the lead county shall file certified 3703
copies of all proceedings and filings with the clerks of the 3704
boards of all affected counties. 3705

Sec. 6133.07. (A) (1) The county auditor and county 3706
treasurer of the lead county ~~in which the petition authorized by-~~ 3707
~~section 6133.02 of the Revised Code is filed shall ex officio-~~ 3708
~~become~~ are the fiscal agents of all the counties interested in 3709
the proposed improvement. Such 3710

(2) The clerk of the joint board shall present bills for 3711
payment to the fiscal agents in the same manner as a request for 3712
payment would be made with respect to a single county drainage 3713
improvement. 3714

(3) The fiscal agents shall process and pay each bill for 3715
the joint board of county commissioners presented. 3716

(B) The auditor of the lead county shall certify to the 3717
auditor of the other counties a schedule of the assessments to 3718
be levied for the cost of locating and constructing the 3719
improvement and the auditor of such other county shall ~~proceed-~~ 3720
~~forthwith to~~ place such assessment upon the duplicates. The 3721
assessments so certified for collection to an auditor of another 3722

county shall be a lien on the land within such county from the 3723
date such certificate is received by the auditor of such other 3724
county. ~~The~~ 3725

(C) The treasurer of each county shall proceed to collect 3726
the same assessments pursuant to the orders made in said the 3727
proceedings for a joint drainage improvement, and such shall pay 3728
the assessments when collected shall be paid to the treasurer of 3729
the lead county in which the petition was filed. The 3730

(D) The auditor and the treasurer of the lead county shall 3731
receive and account for such funds in the same manner as they 3732
receive and account for assessments collected for single county 3733
improvements. ~~The treasurer and the auditor with their bondsmen-~~ 3734
bonders shall be liable on their official bonds for any 3735
misappropriation of such funds. ~~All~~ 3736

(E) All warrants for the payment of costs of location and 3737
for costs of construction of a joint county improvement shall be 3738
drawn by the auditor of the lead county in which the petition is 3739
filed, on the treasurer of said the lead county, payable out of 3740
the general ditch drainage improvement fund of said the lead 3741
county. ~~If the~~ 3742

(F) If a petition for the a joint drainage improvement is 3743
dismissed after the costs and expenses have been incurred in 3744
making the lead county engineer's reports and schedules provided 3745
for in section 6133.08 of the Revised Code, such costs shall be 3746
paid by the several counties respectively, as the joint board of 3747
county commissioners deems just and equitable. All assessments 3748
when collected in all the counties and any amount which another 3749
county should pay shall be paid into the treasury of the lead 3750
county ~~in which the petition was filed,~~ and credited to the 3751
general ditch drainage improvement fund of said the lead county. 3752

Sec. 6133.08. ~~(A) The joint board may designate the county~~ 3753
engineer of the lead county ~~where the petition is filed to do is~~ 3754
responsible for the field work and shall make the survey, plans, 3755
and estimates, ~~but the~~ for the joint drainage improvement. The 3756
county engineer of each affected county ~~interested~~ shall assist 3757
in making the reports and schedules. All reports and schedules 3758
of the lead county's county engineer shall be signed and 3759
approved by all the county engineers of the several affected 3760
counties ~~interested~~ and shall be filed with the clerk ~~with whom~~ 3761
~~the petition is filed~~ of the lead county. ~~If the engineers of~~ 3762
~~the several counties interested do not concur in the reports or~~ 3763
~~schedules, separate reports or schedules may be filed by one or~~ 3764
~~more of the engineers, and the costs thereof shall be paid by~~ 3765
~~the counties from which the separate reports or schedules are~~ 3766
~~filed. In making up the schedules and reports the engineers~~ 3767
~~shall proceed to make the schedules and reports of the~~ 3768
~~improvement the same as if the improvement were an improvement~~ 3769
~~within a county of the size of the several counties interested~~ 3770
~~in the proposed improvement. The engineers who do not make the~~ 3771
~~survey may make such observations and take such levels as are~~ 3772
~~necessary to assist them in making their schedules and in~~ 3773
~~arriving at the proper amount to be assessed against each tract~~ 3774
~~of land.~~ 3775

~~(B) The county engineer who did the field work and made~~ 3776
~~the survey and plans of the lead county shall proceed to take~~ 3777
bids, inspect the progress of the work and make estimates and 3778
reports on the progress of the work, accept the work and 3779
material for the improvement, and issue certificates therefor, 3780
as in the case of single county improvements, ~~and shall do all~~ 3781
~~things to be done by an engineer after the letting of the~~ 3782
contracts under Chapter 6131. of the Revised Code. 3783

Sec. 6133.09. (A) The hearing on the reports and schedules 3784
of the county engineers provided for by section 6133.08 of the 3785
Revised Code and all other proceedings relative to a proposed 3786
joint county improvement shall be had the same as in single 3787
county ~~ditches~~ drainage improvements. ~~Claims~~ 3788

(B) Claims for compensation for land taken or for damages 3789
to land may be appealed by an affected owner~~interested~~, or by 3790
the prosecuting attorney, to the court of common pleas of the 3791
county in which the land for which the owner claims compensation 3792
or damages is located. ~~All~~ 3793

(1) All claims for compensation or damages which are 3794
allowed shall be paid out of the treasury of the county in which 3795
such land is located. ~~The~~ 3796

(2) The county auditor of the lead county ~~in which the~~ 3797
~~petition is filed~~ shall certify the amounts of compensation or 3798
damages so found by the joint board of county commissioners to 3799
the auditors of the other counties, respectively, for payment. 3800

(C) If an appeal is taken on the question of compensation 3801
or damages, the auditor of the lead county ~~in which the petition~~ 3802
~~is filed~~ shall transmit to the clerk of the court of common 3803
pleas of the county in which the land of the appellant is 3804
located the original papers relating to the claim for 3805
compensation or damages and a certified transcript of the 3806
findings on the improvement and on the claim, which shall be 3807
docketed by the clerk and shall proceed the same as an appeal on 3808
a claim for compensation or damages in a single county 3809
improvement proceeding. 3810

Sec. 6133.10. (A) All appeals to the court of common pleas 3811
except appeals on claims for compensation or damages shall be 3812

heard by a panel of judges consisting of one judge of the court 3813
of common pleas from each of the affected counties ~~interested,~~ 3814
~~sitting en banc.~~ If 3815

(1) If the panel cannot reach a decision, the panel may 3816
request the addition of a judge from a court of common pleas in 3817
the area of the state in which the joint drainage improvement is 3818
located. 3819

(2) The panel shall follow court opinions and precedent 3820
established by the appellate district in which the petition for 3821
the joint drainage improvement was filed. 3822

(3) If a judge is disqualified or for any reason does not 3823
care or refuses to hear the a case, the chief justice of the 3824
supreme court shall designate a judge to sit in ~~his~~ the judge's 3825
place. Appeals 3826

(B) All appeals on claims for compensation or damages 3827
shall be tried by jury as provided in ~~sections 6131.01 to~~ 3828
~~6131.64, inclusive, Chapter 6131.~~ of the Revised Code. 3829

Sec. 6133.11. (A) If the a joint board of county 3830
commissioners ~~finds for the~~ approves a proposed joint drainage 3831
improvement ~~and but,~~ at the final hearing for the improvement, 3832
is unable to agree ~~upon on~~ the amount to be assessed to each an 3833
affected county to be paid by the county because the improvement 3834
is for improvements conducive to the public welfare, or of 3835
benefit to public highways or ~~to~~ land owned by the an affected 3836
county, ~~then such the~~ joint board shall by resolution state the 3837
~~fact that such the~~ joint board is not able to agree as to such 3838
~~fact on the assessments.~~ Upon 3839

(1) Upon the adoption of such the resolution, the question 3840
shall be appealed to the court of common pleas as is provided in 3841

sections 6133.02 to 6133.11, ~~inclusive,~~ of the Revised Code. ~~No~~ 3842

(2) No bond on appeal need be filed, and the resolution of 3843
the joint board ~~stating such inability to agree shall be deemed~~ 3844
the statement on appeal. ~~The~~ 3845

(3) The clerk of the joint board shall perfect the appeal 3846
by filing a transcript, ~~including of the resolution of the joint~~ 3847
~~board finding that the joint board cannot agree, with all of the~~ 3848
~~original papers, in the court and the record of proceedings for~~ 3849
~~the joint improvement. The~~ 3850

(B) The court shall hear such an appeal under this section 3851
the same as other appeals under sections 6133.02 to 3852
6133.11, ~~inclusive,~~ of the Revised Code, and make such order as 3853
to costs as is equitable. 3854

Sec. 6133.14. The state shall pay to the county treasurer 3855
of the lead county in which the petition for a drainage 3856
~~improvement was filed~~ the assessment levied against it for the 3857
state's proportionate share of the cost of any improvement 3858
authorized or constructed under sections 6131.01 to 6131.64, 3859
6133.01 to 6133.15, and 6135.01 to 6135.27 of the Revised Code 3860
and all unpaid assessments for maintenance as provided by 3861
sections 6137.01 to 6137.12 of the Revised Code. 3862

Sec. 6137.01. As used in ~~sections 6137.01 to 6137.14,~~ 3863
~~inclusive,~~ of the Revised Code, "owner," this chapter: 3864

(A) "Owner," "benefit," "lead county," and "improvement," 3865
have the meaning set forth same meanings as in section 6131.01 3866
of the Revised Code. 3867

(B) "Force account" has the same meaning as in section 3868
5543.19 of the Revised Code. 3869

Sec. 6137.02. (A) The board of county commissioners of 3870
each county shall establish and maintain a fund within each 3871
county for the repair, upkeep, and permanent maintenance of each 3872
improvement constructed ~~under Chapter 6131. of the Revised Code.~~ 3873
~~After~~ after August 23, 1957, ~~a maintenance fund also shall be~~ 3874
~~established and maintained by each joint board of county~~ 3875
~~commissioners for the repair, upkeep, and permanent maintenance~~ 3876
~~of each improvement constructed under Chapter 6133. of the~~ 3877
~~Revised Code. A maintenance fund shall also be established for~~ 3878
~~the repair, upkeep, and permanent maintenance of each~~ 3879
~~improvement constructed under Chapter 6135. of the Revised Code~~ 3880
~~if the necessary privilege to do so has been granted by the~~ 3881
~~legislature of the other state~~ under Chapter 940., 6131., 6133., 3882
or 6135. of the Revised Code. ~~If~~ 3883

(B) If the improvement affects only a single county of the 3884
state, the board of county commissioners of that county shall 3885
establish and maintain the fund. If two or more counties of the 3886
state are affected by the improvement, the joint board of county 3887
commissioners organized under ~~Chapter~~ Chapters 940., 6133., and 3888
6135. of the Revised Code shall establish and maintain the fund. 3889

Sec. 6137.03. (A) (1) The maintenance fund shall be 3890
maintained, as needed, by an assessment levied not more often 3891
than once annually upon the benefited owners, ~~as defined in~~ 3892
~~section 6131.01 of the Revised Code,~~ apportioned on the basis of 3893
the estimated benefits for ~~construction~~ all costs of the 3894
improvement. ~~An~~ 3895

(2) An assessment shall represent such a percentage of the 3896
estimated benefits as is estimated by the engineer and found 3897
adequate by the board or joint board to effect the purpose of 3898
section 6137.02 of the Revised Code, except that at no time 3899

shall a maintenance fund have an unencumbered balance greater 3900
than twenty per cent of ~~all construction costs of the~~ 3901
~~improvement~~ the permanent assessment base for maintenance 3902
established under section 6137.11 of the Revised Code. ~~The~~ 3903

(3) The minimum assessment shall be two dollars. 3904

~~The (B) A~~ A maintenance assessment shall be made by the 3905
board of county commissioners ~~in the case of a single county~~ 3906
~~improvement, or by the joint board in the case of a joint of~~ 3907
county improvement, commissioners upon the substantial 3908
completion of ~~an a drainage improvement and on or before the~~ 3909
~~first day of July in each year thereafter.~~ The maintenance 3910
assessment shall be certified by the clerk of the board or joint 3911
board to the county auditor in case of a single county 3912
improvement, and to the county auditor of each affected county 3913
~~interested in the case of in a joint county improvement, and.~~ 3914
The auditor or auditors shall be placed by the auditor or 3915
auditors place the assessment on the next succeeding tax 3916
duplicate to be collected and paid as other special assessments 3917
are collected and paid. 3918

(C) With respect to a single county improvement, the 3919
county engineer shall inspect the drainage improvements in the 3920
county. On or before the first day of July of each year, the 3921
county engineer shall report to the board of county 3922
commissioners both of the following: 3923

(1) The county engineer's findings regarding the present 3924
condition of the drainage improvements in the county; 3925

(2) An estimate of the amount of funds necessary to repair 3926
and maintain the improvements for the following year. 3927

With regard to a joint county improvement, the county 3928

engineer of each applicable county shall make such a report to 3929
the joint board. 3930

(D) (1) The board shall use the county engineer's estimate 3931
to determine the annual drainage maintenance assessments, which 3932
shall be based on a percentage of the permanent assessment base. 3933

(2) On or before the second Monday of September in each 3934
year, the board shall direct the county auditor or auditors, as 3935
applicable, to place the maintenance assessments on the tax 3936
duplicate. 3937

(E) (1) With respect to a single county improvement, the 3938
county auditor shall place maintenance assessments received for 3939
a drainage improvement into the maintenance fund designated for 3940
the drainage improvement. 3941

(2) With respect to a joint county improvement, the county 3942
auditor of each county that is not the lead county shall place 3943
maintenance assessments received for a drainage improvement into 3944
the maintenance fund designated for the drainage improvement. 3945
Twice a year, each county auditor of a county that is not a lead 3946
county shall transfer money in that fund to the county auditor 3947
of the lead county, who shall deposit the money into the joint 3948
drainage improvement's maintenance fund. The county auditor of 3949
the lead county shall place maintenance assessments received in 3950
the lead county for the drainage improvement into the joint 3951
drainage improvement's maintenance fund. 3952

Sec. 6137.04. (A) (1) The board of county commissioners, 3953
upon recommendation of the county engineer, is hereby authorized 3954
to may combine improvements within the same watershed into a 3955
drainage maintenance district, in which the maintenance 3956
assessment shall be the same percentage of original cost for 3957

each improvement to be maintained. ~~In grouping~~ 3958

(2) In combining improvements into drainage maintenance 3959
districts, the county engineer and the board of county 3960
commissioners shall consider ~~uniformity-similarity of costs,~~ 3961
~~topography,~~ and soil types so that improvements within the same 3962
district ~~represent-present~~ substantially the same maintenance 3963
~~problem-issues~~ and ~~can be kept in proper repair at cost-~~ 3964
~~sufficiently uniform as to constitute no substantial inequity-~~ 3965
~~for any owners to be included in a district maintenance program-~~ 3966
costs. The county auditor shall maintain one drainage 3967
maintenance fund for each such district. ~~A~~ 3968

(3) A maintenance district may include all or any part of 3969
a county. 3970

(B) The board of county commissioners, upon recommendation 3971
of the county engineer, may combine improvements in accordance 3972
with the type of improvement into one drainage maintenance fund 3973
so that ditches or drains that are enclosed in tile, or other 3974
improvements having similar maintenance costs, may be 3975
administered for maintenance under the same maintenance fund. 3976

(C) (1) In the case of each joint county ~~ditch-drainage~~ 3977
improvement, the county auditor of the lead county ~~having the-~~ 3978
~~majority of the improvement~~ shall maintain a separate 3979
maintenance fund for the improvement. ~~The~~ 3980

(2) The owners subject to the original assessment for the 3981
improvement shall constitute one maintenance district for the 3982
purpose of repair, upkeep, and maintenance of the improvement. 3983

(3) The county engineer of the lead county ~~having the-~~ 3984
~~majority of the improvement~~ shall serve as the county engineer 3985
in charge of maintenance and, after consultation with the 3986

engineer of any other county affected, shall annually file a 3987
report of inspection with a recommendation as to the amount of 3988
the maintenance assessment by the same procedure as provided by 3989
section 6137.03 of the Revised Code for assessment in the case 3990
of a single county ~~ditch~~ drainage improvement. 3991

Sec. 6137.05. (A) The maintenance fund ~~created~~ established 3992
under ~~authority of~~ section 6137.01-6137.02 of the Revised Code 3993
shall be subject to use of the board of county commissioners, or 3994
joint board of county commissioners, ~~as the case may be,~~ for the 3995
necessary and proper repair or maintenance of any drainage 3996
improvement constructed under ~~sections 6131.01 to 6131.64,~~ 3997
~~6133.01 to 6133.15, and 6135.01 to 6135.27~~ Chapters 940., 6131., 3998
6133., and 6135. of the Revised Code. 3999

~~(A)~~ (B) Whenever the board, or the joint board, from its 4000
own observation or the recommendation of the county engineer or 4001
the lead county's county engineer, or on the written complaint 4002
of any of ~~the owners of lands~~ owner of land subject to the 4003
maintenance assessment, has ~~reason to believe the improvement is~~ 4004
~~in-identified a need of~~ for the repair or maintenance of a 4005
drainage improvement, ~~it shall as a board, or by the county~~ 4006
~~engineer, make an inspection of its~~ shall inspect the condition, 4007
~~and, if it finds the need to exist, it shall make an estimate of~~ 4008
~~the cost of the necessary work and material required for the~~ 4009
~~purpose. If the nature of the work is such as to be done most~~ 4010
~~economically and expeditiously by force account, the board shall~~ 4011
~~cause the proper work to be done by that method under the~~ 4012
~~supervision of the county engineer and certify the costs to the~~ 4013
~~county auditor or county auditors for payment from the~~ 4014
~~maintenance fund. If the finding is that necessary repair and~~ 4015
~~maintenance on an improvement or improvements within a~~ 4016
~~maintenance district can be more economically or efficiently~~ 4017

~~done by contract, the board, or joint board in the case of a~~ 4018
~~joint county improvement, shall cause the engineer to prepare~~ 4019
~~proper specifications, covering the requirements for the~~ 4020
~~particular case, to advertise for bids thereon, as in the case~~ 4021
~~of original construction, under section 6131.24 of the Revised~~ 4022
~~Code, and to let the contract for the required work and material~~ 4023
~~to the lowest and best bidder, who, upon the performance of the~~ 4024
~~work certified by the engineer, shall certify the same to the~~ 4025
~~auditor or auditors for payment from the maintenance fund of the~~ 4026
~~drainage improvement.~~ 4027

~~(B) When the repair or maintenance is upon a joint county~~ 4028
~~ditch improvement, the amount of the cost thereof shall be~~ 4029
~~certified to the auditor of each of the counties into which the~~ 4030
~~ditch extends and has lands subject to the maintenance fund~~ 4031
~~assessment, and the certificate shall state the proportional~~ 4032
~~part of the cost to be paid from the portion of the maintenance~~ 4033
~~fund in the county, according to the original apportionment of~~ 4034
~~benefits on the owners in the county subject to maintenance~~ 4035
~~assessment. Upon the certificates being received, the auditors~~ 4036
~~of the counties obligated shall immediately forward their~~ 4037
~~several amounts or vouchers therefor to the auditor of the~~ 4038
~~county having the majority of the improvement through whose~~ 4039
~~office, from the aggregate payments of all the counties~~ 4040
~~interested, the payment for the work and material, whether by~~ 4041
~~force account or contract, shall be paid. The location of the~~ 4042
~~work required on a joint county improvement, whether in one~~ 4043
~~county or another, or whether extending into two or more~~ 4044
~~counties, shall not affect the obligation of contribution for~~ 4045
~~any necessary work upon the improvement in any portion of its~~ 4046
~~length wherever located, the improvement for maintenance~~ 4047
~~purposes being considered a single unit. As far as applicable,~~ 4048

~~the procedures provided by section 6133.08 of the Revised Code~~ 4049
~~with respect to cooperation of county engineers in field work~~ 4050
~~shall apply to maintenance of joint county improvements.~~ 4051

~~The repair and maintenance on any improvement may be done~~ 4052
~~in part by contract and in part by force account, it being the~~ 4053
~~duty of the board of county commissioners, or the joint board of~~ 4054
~~county commissioners, and the county engineer to use the best~~ 4055
~~and most economical methods under local conditions for the~~ 4056
~~various phases of the maintenance program, such as excavating,~~ 4057
~~clearing, cleaning, snagging, physical and chemical control of~~ 4058
~~land and aquatic vegetation, and repair of banks and structures.~~ 4059

(C) If the county engineer finds that the drainage 4060
improvement is in need of repair or maintenance, the county 4061
engineer shall do all of the following: 4062

(1) Make an estimate of the cost of the necessary work; 4063

(2) Determine the most efficient and economical manner to 4064
complete the work, including conducting the work in various 4065
phases if determined necessary. The county engineer shall take 4066
into account local conditions that may pertain to a maintenance 4067
program such as excavation, snagging, clearing, cleaning, 4068
physical and chemical control of vegetation, and reparation of 4069
banks and structures. The county engineer may determine whether 4070
the work shall be performed by force account, contract, or a 4071
combination of the two. However, if a contract is used for the 4072
work, the county engineer shall comply with sections 307.86 to 4073
307.92 of the Revised Code. 4074

(3) Determine a schedule for completion of the work 4075
subject to the availability of funds in the appropriate 4076
maintenance fund; 4077

(4) Certify the actual cost of completion of the work to 4078
the county auditor or lead county's county auditor for payment 4079
from the appropriate maintenance fund. 4080

(D) The board or joint board and the county engineer may 4081
contract with a soil and water conservation district for the 4082
repair, upkeep, and permanent maintenance of any drainage 4083
improvement for which the county engineer is responsible, 4084
whether as the county engineer or as the lead county engineer. 4085

Sec. 6137.051. (A) Whenever the owner of any lands 4086
assessed for construction of an improvement authorized prior to 4087
August 23, 1957, files a written complaint that the improvement 4088
is in need of repair, the county engineer or his the county 4089
engineer's designated representative shall make an inspection of 4090
the condition of the improvement within sixty days of receipt of 4091
the complaint and shall request the owner to accompany him be 4092
present at the inspection. If 4093

(B) If the county engineer finds that a need exists, he 4094
the county engineer shall make an estimate of the cost of the 4095
necessary work and material required for the repair. The 4096

(C) The board of county commissioners, if it finds the 4097
work to be necessary and feasible, may authorize the county 4098
engineer to make the repairs at a cost not to exceed four 4099
twenty-four thousand dollars. For 4100

(D) For the purpose of paying for the necessary work and 4101
materials, the board of county commissioners may establish a 4102
drainage repair fund for the improvement to be repaired. The 4103
county engineer shall prepare and submit a schedule of 4104
assessments upon the benefiting lands to the board of county 4105
commissioners in the amount of the actual costs of the repair. 4106

The board of county commissioners may revise the estimated 4107
assessments as they consider equitable and shall certify the 4108
assessments to the county auditor for collection. ~~Not~~ 4109

(E) Not more than ~~four-ten~~ semiannual installments, as 4110
taxes are paid, shall be given to owners to pay for the repair 4111
assessments, and if any such assessment is twenty-five dollars 4112
or less, or whenever the unpaid balance of any such assessment 4113
is twenty-five dollars or less, the same shall be paid in full, 4114
and not in installments, at the time the first installment would 4115
otherwise become due. ~~If the drainage repair fund for the~~ 4116
~~improvement to be so repaired is inadequate for the repair, the~~ 4117
~~board of county commissioners may make payment for the repair~~ 4118
~~from the county general fund, which sum so paid from the general~~ 4119
~~fund shall be a charge against the appropriate drainage~~ 4120
~~maintenance fund to be repaid to the general fund as soon as~~ 4121
~~adequate funds are available in the drainage maintenance fund.~~ 4122

Sec. 6137.06. ~~The~~ (A) With regard to a single county 4123
improvement, the county engineer shall have ~~has~~ general charge 4124
and supervision of the repair and maintenance of all county ~~and~~ 4125
~~joint county ditches, drains, watercourses, and other drainage~~ 4126
~~improvements within his county constructed under sections~~ 4127
~~6131.01 to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, and~~ 4128
~~6137.051 Chapters 940., 6131., 6133., and 6135. of the Revised~~ 4129
Code. ~~The county engineer shall make an inspection of the~~ 4130
~~drainage improvements and, on or before the first day of June in~~ 4131
~~each year, shall report to the board of county commissioners the~~ 4132
~~condition of the drainage improvements and his estimate of the~~ 4133
~~probable amount of funds required to repair and maintain them.~~ 4134
~~The estimates shall relate to the year beginning on the first~~ 4135
~~day of July next ensuing and shall be for the information of the~~ 4136
~~board of county commissioners in making their annual drainage~~ 4137

~~maintenance levies.~~ 4138

~~The engineer shall approve all estimates that are paid~~ 4139
~~from the county drainage maintenance fund for the repair and~~ 4140
~~maintenance of drainage improvements. With regard to a joint~~ 4141
~~county improvement, the lead county engineer has general charge~~ 4142
~~and supervision of the repair and maintenance of all joint~~ 4143
~~county drainage improvements constructed under Chapters 940.,~~ 4144
~~6131., 6133., and 6135. of the Revised Code.~~ 4145

(B) The duties of the county engineer with respect to 4146
maintenance of any drainage improvement begin upon the 4147
substantial completion of the improvement. In preparing plans 4148
and specifications for repair and maintenance of a drainage 4149
improvement, the county engineer shall provide for necessary 4150
clearing of tree and brush growth, removal of silt bars, 4151
spreading and leveling of spoil banks, and the preservation of a 4152
sod or seeded strip as provided in the case of new construction 4153
under section 6131.14 of the Revised Code. 4154

(C) Any number of persons person owning land along a 4155
~~ditch, drain, watercourse, or other~~ drainage improvement may 4156
form an advisory committee for the purpose of notifying the 4157
county engineer of any repair and maintenance work that needs to 4158
be performed on the improvement. A committee formed for this 4159
purpose shall submit ~~their~~ recommendations to the county 4160
engineer not later than the first day of May of any year in 4161
which its members desire to notify ~~him~~ the county engineer of 4162
needed work. In determining the condition of the improvement in 4163
accordance with this section, the county engineer shall consider 4164
the committee's recommendations. 4165

~~The county auditor, before he issues his~~ (D) Before 4166
issuing a warrant for any moneys expended by the county for 4167

repair or maintenance of any drainage improvement, the county 4168
auditor shall require of the county engineer the assignment of 4169
the expense to the improvement or the drainage maintenance 4170
district in connection with which the expense was incurred. The 4171
county auditor shall keep such records as are necessary to show 4172
clearly at the close of each year the amount of money expended 4173
from the drainage maintenance funds on each drainage improvement 4174
or each drainage maintenance district. 4175

(E) The county auditor shall may establish and maintain a 4176
rotary fund for the purchase of equipment, materials, and labor 4177
related to the general maintenance of ~~watereourses~~ drainage 4178
improvements under ~~Chapter 6137. of the Revised Code~~ this 4179
chapter. ~~This~~ The county auditor shall establish and maintain 4180
the fund shall be established and maintained by a proportionate 4181
withdrawal from the funds of each drainage improvement or each 4182
drainage maintenance district. 4183

(F) The county engineer shall establish a rental rate for 4184
equipment purchased with ~~this~~ the rotary fund. This rate shall 4185
be used in charging the equipment, along with material and 4186
labor, to the drainage improvement upon which it is used in 4187
order to reimburse the rotary fund. 4188

~~The duties of the county engineer with respect to~~ 4189
~~maintenance of any drainage improvement shall begin upon the~~ 4190
~~substantial completion of the improvement.~~ 4191

~~In preparing plans and specifications for repair and~~ 4192
~~maintenance of open ditches and in carrying out the plans either~~ 4193
~~by contract or force account, the county engineer shall provide~~ 4194
~~for necessary clearing of tree and brush growth, removal of silt~~ 4195
~~bars, spreading and leveling of spoil banks, and the~~ 4196
~~preservation of a sod or seeded strip as provided in the case of~~ 4197

~~new construction under section 6131.14 of the Revised Code, in~~ 4198
~~addition to the various phases of maintenance set forth in~~ 4199
~~section 6137.05 of the Revised Code.~~ 4200

~~Sections 6131.01 to 6131.64 of the Revised Code apply to~~ 4201
~~the maintenance fund with respect to receiving bids, statements~~ 4202
~~required in bids, letting contracts, competitive bidding, time~~ 4203
~~allowed under contract, supervision of contractor's work,~~ 4204
~~certification for payment, and other related matters.~~ 4205

Sec. 6137.07. (A) As used in this section, "drainage 4206
equipment" means machinery, tools, conveyances, or other 4207
equipment for the repair and maintenance of drainage 4208
improvements a board of county commissioners considers 4209
necessary. 4210

(B) The board of county commissioners may purchase such 4211
machinery, tools, conveyances, or other do both of the 4212
following: 4213

(1) Purchase drainage equipment for the repair and 4214
maintenance of drainage improvements under its jurisdiction as 4215
it considers necessary; 4216

(2) Provide a suitable place to house and store the 4217
drainage equipment. 4218

~~All such machinery, tools, conveyances, or~~ The county 4219
engineer shall be responsible for the care and custody of the 4220
drainage equipment shall be under the care and custody of the 4221
county engineer and shall be plainly and conspicuously marked 4222
mark it as the property of the county. The 4223

(C) The county engineer shall annually, on the first day 4224
second Monday of June January, make an inventory of all such 4225
items the drainage equipment, indicating each article and 4226

stating ~~the~~ its estimated value ~~thereof~~, and deliver the 4227
inventory to the board, ~~which~~ of county commissioners. The board 4228
shall ~~cause it to be placed~~ keep the inventory on file. ~~At the~~ 4229
~~same time he shall~~ The county engineer may file with the board 4230
~~his~~ written recommendations as to what machinery, tools, 4231
~~conveyances,~~ and with the board for drainage equipment that 4232
should be purchased for use in the county drainage maintenance 4233
program during the ensuing year and ~~the~~ its estimated cost 4234
~~thereof~~. 4235

~~The board shall provide a suitable place for housing and~~ 4236
~~storing machinery, tools, conveyances, and equipment owned by~~ 4237
~~the county.~~ (D) All expenditures authorized by this section 4238
shall be paid out of the drainage maintenance fund or funds. If 4239
the drainage maintenance fund at any time is inadequate for such 4240
purchase or other expenditure, the board of county commissioners 4241
is authorized to make the payment from the county general fund, 4242
which sum so paid from the general fund shall be a charge 4243
against the drainage maintenance fund or funds to be repaid to 4244
the general fund as soon as adequate funds are available in the 4245
drainage maintenance fund or funds. 4246

Sec. 6137.08. ~~Any~~ (A) An owner may make application for 4247
reduction in ~~his~~ the owner's maintenance assessment due to work 4248
~~he~~ the owner proposes on any portion of a public ditch, 4249
watercourse, or other improvement. The application shall be 4250
filed with the county engineer on or before the first day of May 4251
in any year and shall state the nature of the work to be done, 4252
such as clearing brush, removing silt or debris, repair of 4253
structure, or other work necessary to preserve the improvement. 4254
~~The~~ 4255

(B) The county engineer, in making inspections of the 4256

drainage improvements, shall note the extent to which any owner 4257
that has applied for a reduction of the maintenance assessment 4258
under division (A) of this section has carried out such repair 4259
and maintenance work. ~~In~~ 4260

(C) In making the annual report and estimate to the board 4261
of county commissioners, the county engineer shall include a 4262
schedule containing the name of each owner who has applied for 4263
reduction of maintenance assessment ~~due to performance of repair~~ 4264
~~and maintenance work~~ under division (A) of this section and the 4265
percentage reduction, if any, that the county engineer 4266
recommends be granted to each owner. ~~The~~ 4267

(D) The board of county commissioners shall either confirm 4268
or reject the allowances recommended by the county engineer. The 4269
allowance confirmed as to each ~~land~~-owner shall be certified to 4270
the county auditor, who shall reduce the next annual maintenance 4271
assessment of the owner by the percentage so certified. 4272

Sec. 6137.09. (A) The board of county commissioners may 4273
grant to any owner a reduction of not more than fifty per cent 4274
of ~~his~~ the owner's annual maintenance assessment provided that 4275
the owner shall have filed with the county engineer a 4276
certificate of the board of supervisors of the soil conservation 4277
district of the county in which the land is located, certifying 4278
that ~~he~~ the owner is following practices in the cultivation or 4279
management of agricultural land that will reduce the runoff of 4280
surface water and the erosion of sediment and silt into drainage 4281
channels. The certificate shall be signed by the president and 4282
the secretary-treasurer of the soil and water conservation 4283
district board of supervisors and it shall remain in effect 4284
until canceled by the board of county commissioners. ~~The~~ 4285

(B) The county engineer ~~shall have the right to~~ may 4286

inspect the premises of any owner claiming assessment reduction 4287
due to soil and water conservation and to ask the soil 4288
conservation district for review of any certificate on file. 4289

(C) At the time he the county engineer makes his the 4290
annual report and estimate of maintenance costs, the county 4291
engineer shall transmit to the board of county commissioners all 4292
soil and water conservation certificates that ~~have been were~~ 4293
filed with ~~him~~ the county engineer. ~~The~~ 4294

(D) The clerk of the board of county commissioners, on or 4295
before the first day of ~~July August~~ in each year, shall file 4296
with the county auditor a list of owners who have been ~~certified~~ 4297
~~by the soil conservation district for a fifty per cent granted a~~ 4298
reduction in maintenance assessment for the current year under 4299
this section. 4300

Sec. 6137.10. If the cleaning out or repair of a ditch, 4301
drain, or watercourse, repair or replacement of tile, or repair 4302
of any abutment, catch basin, retaining wall or other 4303
improvement is made necessary in whole or in part by the 4304
negligent acts or omissions of ~~any an~~ owner, the board of county 4305
commissioners ~~after shall conduct a hearing subsequent to thirty~~ 4306
~~days notice regarding the acts or omissions. The board shall~~ 4307
give notice of the hearing thirty days prior to the hearing 4308
pursuant to the provisions of section 6131.07 of the Revised 4309
Code. After the hearing, the board may add to the maintenance 4310
assessment of ~~such the~~ negligent owner an additional repair 4311
assessment in an amount sufficient to rectify the damage. ~~Such~~ 4312
The added assessment shall be made on recommendation of the 4313
county engineer and certified to the county auditor at the same 4314
time the annual maintenance assessment is certified by the 4315
board. 4316

Sec. 6137.11. (A) The original schedule of benefit 4317
assessments upon owners for the construction of any improvement 4318
shall be maintained by the county auditor as the permanent 4319
assessment base for maintenance assessments. The county auditor 4320
shall levy the maintenance assessments ~~shall be levied by the~~ 4321
~~county auditor~~ in such percentage of the permanent assessment 4322
base as is authorized by the board of county commissioners. 4323

~~The board of county commissioners, before~~ (B) Before 4324
certifying the percentage of the permanent assessment base to be 4325
levied in any one year for the ~~drainage maintenance fund,~~ the 4326
board of county commissioners shall consider any recommendation 4327
by the county engineer and any application by ~~any~~ an owner for 4328
increase or reduction of the permanent assessment base as it 4329
applies to ~~any~~ an owner. 4330

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

(C) (1) After six annual maintenance fund assessments have 4337
been made upon the owners benefiting from an improvement, the 4338
board of county commissioners shall review the permanent 4339
assessment base for maintenance fund assessment and may increase 4340
or decrease the respective benefit apportionments in accordance 4341
with changes in benefits that have occurred during the 4342
intervening six years. 4343

~~As soon as~~ (2) Any increase or reduction of the permanent 4344
assessment base with respect to an owner shall be made for the 4345
purpose of correcting an inequity that has arisen due to 4346

increase or decrease in the proportionate share of benefits 4347
accruing to the owner as the result of the construction and 4348
maintenance of the improvement. 4349

(3) If the board of county commissioners has changed 4350
proposes changes to the permanent assessment base of maintenance 4351
assessments of any an owner, the clerk board shall conduct a 4352
hearing on those changes. The board shall conduct the hearing 4353
not less than twenty nor more than thirty days from the date the 4354
proposed changes are to be adopted. 4355

(4) The clerk of the board shall send to each owner in the 4356
area benefited by the improvement a notice by certified mail, 4357
return receipt requested, or by first-class mail in a five-day 4358
return envelope. For each improvement, all individual notices 4359
shall be sent by the same type of mail. Whichever method the 4360
board chooses, with the words "Legal Notice" shall be printed in 4361
plain view on the face of the envelope. The notice shall state 4362
clerk shall include in the notice a statement of the amount of 4363
the present permanent assessment base for maintenance 4364
assessment, the proposed new permanent assessment base amount 4365
with respect to each owner so changed, and the date of a hearing 4366
on the change. The hearing shall be set by the board for a date 4367
not less than twenty nor more than thirty days from the date of 4368
adoption of the changes. 4369

(D) At the expiration of six years from the date of the 4370
first review of the permanent assessment base of maintenance 4371
assessments, and at six-year intervals thereafter, the board of 4372
county commissioners shall may again review the permanent 4373
assessment base and shall set a hearing on any proposed changes 4374
by in accordance with the procedure provided procedures 4375
established in division (C) of this section for the first such 4376

review. 4377

(E) The board of county commissioners at any time may add 4378
to the schedule of benefited owners any other owner who, in the 4379
judgment of the board, is benefited by the operation and 4380
maintenance of the improvement as the result of new conditions 4381
that have arisen since the improvement was constructed. The 4382
~~additional clerk of the board shall provide such an owner shall~~ 4383
~~be given notice in writing of his the owner's permanent~~ 4384
~~maintenance fund assessment base and the date of a hearing by~~ 4385
~~the same procedure as provided by in accordance with the~~ 4386
~~procedures established in division (C) of this section for any~~ 4387
owner whose permanent assessment base has been changed by the 4388
board. Notice to ~~the additional~~ such an owner shall be sent by 4389
the same type of mail as the board uses for owners whose 4390
permanent assessment base has been changed. 4391

~~The~~ (F) A hearing on the changes in, or additions to, the 4392
permanent assessment base for maintenance assessment may be 4393
adjourned from time to time by the board of county commissioners 4394
and, upon conclusion of the hearing, the revised permanent 4395
assessment base shall be certified to the county auditor and 4396
shall become the permanent assessment base for maintenance 4397
~~assessments~~, except as changed from time to time with respect to 4398
individual owners. 4399

(G) If the board of county commissioners finds that any 4400
owner was not assessed for the construction of an improvement, 4401
but now is receiving substantial benefit therefrom, or was 4402
assessed for construction, but now is receiving substantially 4403
greater benefits therefrom, the board ~~may,~~ after providing a 4404
thirty ~~days~~ day notice pursuant to section 6131.07 of the 4405
Revised Code, may hold a hearing and determine an equitable 4406

amount as an equalization assessment to be paid by the owner. 4407
The equalization assessment shall be divided into the same 4408
number of payments as the assessments for the construction of 4409
the improvement, and the payment shall be added to the next 4410
succeeding maintenance assessments of the owner until the entire 4411
amount of the equalization assessment has been paid. 4412

(H) Any owner affected by an increase in the permanent 4413
assessment base as it applies to ~~him~~ the owner, or who has been 4414
added to the schedule of benefited owners, or who has been 4415
determined to be subject to an equalization assessment, all as 4416
provided in this section, may appeal to the court of common 4417
pleas from a final order made by the board of county 4418
commissioners, in the manner provided by sections 6131.25 to 4419
6131.36 of the Revised Code, the question of whether any such 4420
assessment is levied according to benefits. 4421

(I) In the case of drainage maintenance districts for 4422
which the board of county commissioners has authorized a single 4423
~~drainage~~ maintenance fund, a review of the permanent assessment 4424
base ~~of maintenance assessments~~ shall be made not later than six 4425
years after the creation of the drainage maintenance district, 4426
and at six-year intervals thereafter, by the same procedure as 4427
provided by this section for review of the permanent assessment 4428
base with respect to a single improvement, and it shall not be 4429
necessary to review the entire ~~maintenance~~ permanent assessment 4430
base for any improvement included in the maintenance district 4431
until the board reviews the ~~maintenance~~ permanent assessment 4432
base for the entire district. 4433

Sec. 6137.111. (A) In lieu of the permanent assessment 4434
base and procedure specified in section 6137.11 of the Revised 4435
Code, the board of county commissioners may by resolution levy 4436

upon the benefited property assessments apportioned according to 4437
tax value. The assessments shall be in the amount determined by 4438
the board to be necessary to obtain funds for the ~~ditch~~ 4439
maintenance fund. 4440

(B) Prior to the adoption of ~~the~~ a resolution levying the 4441
assessments, the board shall give at least ten days' notice in 4442
one newspaper of general circulation in the county, which shall 4443
state the time and place when and where the resolution shall be 4444
taken up for consideration. At that time and place or at any 4445
adjournment thereof, of which no further published notice need 4446
be given, the board shall hear all persons whose properties are 4447
proposed to be assessed, shall correct any errors and make any 4448
revisions that appear to be necessary or just, and may then pass 4449
a resolution levying upon the properties determined to be 4450
benefited such assessments as so corrected and revised. 4451

(C) Any owner of property to be so assessed may appeal to 4452
the court of common pleas from the resolution made by the board 4453
of county commissioners, in the manner provided by sections 4454
6131.25 to 6131.36 of the Revised Code, the question of whether 4455
any such assessment is levied according to benefits. 4456

(D) The assessments levied by the board's resolution shall 4457
be certified to the county auditor for collection as other taxes 4458
in the year or years in which they are payable. Any increase or 4459
reduction of the assessments levied under this section shall be 4460
made at the regular six-year reappraisal of all property in the 4461
county under section 5713.01 of the Revised Code or through 4462
adjustments made for property divisions, improvements, and 4463
changes. 4464

Sec. 6137.112. (A) At the time that the board of county 4465
commissioners reviews the permanent assessment base of an 4466

improvement ~~for maintenance fund assessments~~ after six annual 4467
~~maintenance fund assessments~~ have been made as provided in 4468
section 6137.11 of the Revised Code, the board may request the 4469
county engineer to estimate the construction cost of the 4470
improvement if that improvement were to be constructed at the 4471
time of the permanent assessment base review. Not less than 4472
thirty days prior to a hearing at which the board will consider 4473
the estimate as the construction cost of the improvement, the 4474
clerk of the board shall send to each owner that would be 4475
affected a notice by certified mail, return receipt requested, 4476
or by first class mail in a five-day return envelope. For each 4477
improvement, all individual notices shall be sent by the same 4478
type of mail. Whichever method the board chooses, the words 4479
"legal notice" shall be printed in plain view on the face of the 4480
envelope. The notice shall state the amount of the present 4481
permanent assessment base ~~for maintenance assessment~~, the 4482
proposed new permanent assessment base amount with respect to 4483
the owner, and the date of the hearing on the proposed change. 4484

(B) The board of county commissioners, by adoption of a 4485
resolution at the hearing required under division (A) of this 4486
section, may approve the ~~estimate as the construction cost of~~ 4487
~~the improvement~~ permanent assessment base, as determined by the 4488
county engineer according to division (B) (5) of section 6131.14 4489
of the Revised Code in lieu of the original ~~construction cost~~ of 4490
the improvement. If approved, the ~~estimate total estimated cost~~ 4491
of ~~construction cost~~ the improvement shall be the permanent 4492
assessment base that is used to calculate maintenance fund 4493
assessments for owners benefiting from the improvement. The 4494
approved estimate of ~~construction cost~~ the improvement shall 4495
serve as the permanent assessment base for the purposes of this 4496
chapter until such time as it is revised in accordance with this 4497

section. 4498

Sec. 6137.12. (A) In the cleaning, repair, and other 4499
maintenance work on drainage improvements, the persons whose 4500
duty it is to perform the maintenance work may go upon the 4501
adjoining or abutting lands within the permanent easement 4502
necessary for proper operation of the required machinery, tools, 4503
motor vehicles, conveyances, or other equipment. 4504

(B) (1) In the case of open ditches, the permanent easement 4505
so used shall be not more than twenty-five feet from the top of 4506
the bank, measured at right angles thereto, and wherever 4507
practical the area so used shall be on one side of the ditch 4508
only. ~~When in his opinion~~ 4509

(2) In the case of an open ditch log-jam removal project 4510
within a wooded riparian corridor, a maintenance easement may be 4511
created from the top of the bank to twenty-five feet outside of 4512
the edge of the wooded riparian corridor. 4513

(3) When the county engineer determines that an emergency 4514
situation exists at an open ditch needing maintenance, the 4515
county engineer may, with the approval of the board of county 4516
commissioners, temporarily extend the easement to not more than 4517
seventy-five feet from the top of the bank, measured at right 4518
angles thereto, in order to conduct the necessary maintenance 4519
work and alleviate the condition or conditions causing the 4520
emergency situation. ~~The~~ 4521

(C) The maximum width of permanent easement for closed 4522
ditches shall not exceed eighty feet centered on the centerline 4523
of the improvement. ~~The~~ 4524

(D) The permanent easement for all other improvements 4525
shall be as located and the width as specified by the county 4526

engineer. ~~When~~ 4527

(E) When the performance of maintenance requires the 4528
damage of existing crops beyond the permanently established sod 4529
or seeded strip, the owner of the crops shall ~~be granted~~ submit 4530
a written request for payment for damages to the county 4531
engineer. The county engineer shall award the crop owner damages 4532
equal to market value, to be paid from the permanent maintenance 4533
fund established for the improvement. ~~Under~~ 4534

(F) (1) Under contract work, the county engineer may 4535
specify the right-of-way to be used within the permanent 4536
easement. Where the nature of the surface of the adjoining or 4537
abutting land does not prevent it, and there are growing crops 4538
on one side of the ditch but none upon the other, the right-of- 4539
way provided for shall be used on that side of the ditch on 4540
which there are no growing crops. ~~In~~ 4541

(2) In using the right-of-way, the persons performing 4542
maintenance shall, as far as possible, avoid damage to the owner 4543
of the adjoining or abutting lands. 4544

(3) If in the doing of this work it is necessary to damage 4545
or temporarily remove any fences, poles, or wire lines, the cost 4546
of repairing, removing, and replacing the fences, poles, and 4547
wire lines shall be included in the total cost of the 4548
maintenance. 4549

(G) This section does not authorize passage across, along, 4550
or between railroad tracks until thirty days after notice has 4551
been mailed in accordance with section 6131.07 of the Revised 4552
Code. 4553

Sec. 6137.13. That part of interstate ~~ditches~~ drainage 4554
improvements within the state may be cleaned or repaired 4555

pursuant to sections 6137.01 to 6137.12, ~~inclusive,~~ of the 4556
Revised Code. ~~Such sections shall apply insofar as they are~~ 4557
~~applicable.~~ 4558

Sec. 6137.14. The county engineer, in inspecting drainage 4559
channels, shall note any and all apparent violations of sections 4560
6111.01 to 6111.04 of the Revised Code, as such sections refer 4561
to the pollution of drainage channels. Whenever it appears to 4562
the county engineer, ~~after investigation,~~ that there ~~has been~~ 4563
may be a violation of section 6111.04 of the Revised Code, the 4564
county engineer shall ~~give written notice to notify the county~~ 4565
~~board of health~~ director of environmental protection, setting 4566
forth any thing or act done or omitted to be done or claimed to 4567
be in violation of such section. The ~~county board of health~~ 4568
director shall immediately pursue the alleged violation to its 4569
legal conclusion. 4570

Section 2. That existing sections 305.31, 940.01, 940.02, 4571
940.05, 940.06, 940.07, 940.08, 940.10, 940.11, 940.12, 940.13, 4572
940.19, 940.20, 940.21, 940.22, 940.23, 940.26, 940.29, 940.31, 4573
940.32, 940.33, 940.34, 940.35, 6131.01, 6131.04, 6131.05, 4574
6131.06, 6131.07, 6131.08, 6131.09, 6131.10, 6131.11, 6131.12, 4575
6131.13, 6131.14, 6131.15, 6131.16, 6131.17, 6131.19, 6131.21, 4576
6131.22, 6131.23, 6131.24, 6131.25, 6131.27, 6131.28, 6131.30, 4577
6131.32, 6131.33, 6131.34, 6131.36, 6131.42, 6131.43, 6131.47, 4578
6131.50, 6131.51, 6131.52, 6131.55, 6131.57, 6131.60, 6131.63, 4579
6131.631, 6131.64, 6133.01, 6133.02, 6133.03, 6133.04, 6133.041, 4580
6133.05, 6133.06, 6133.07, 6133.08, 6133.09, 6133.10, 6133.11, 4581
6133.14, 6137.01, 6137.02, 6137.03, 6137.04, 6137.05, 6137.051, 4582
6137.06, 6137.07, 6137.08, 6137.09, 6137.10, 6137.11, 6137.111, 4583
6137.112, 6137.12, 6137.13, and 6137.14 of the Revised Code are 4584
hereby repealed. 4585

Section 3. That sections 940.18, 940.24, 940.25, 940.26, 4586
940.27, 940.28, 940.29, 940.30, 6131.18, 6131.26, 6131.29, 4587
6131.35, 6131.44, 6131.48, 6131.49, 6131.56, and 6131.62 of the 4588
Revised Code are hereby repealed. 4589

Section 4. A petition filed under section 6133.02 of the 4590
Revised Code pending approval by a joint county board of county 4591
commissioners on the effective date of this section is subject 4592
to the provisions of Chapter 6133. of the Revised Code that 4593
existed prior to the effective date of this section and shall be 4594
considered by the joint county board of county commissioners 4595
that existed prior to the effective date. Any petition filed 4596
under section 6133.02 of the Revised Code after the effective 4597
date of this section is subject to Chapter 6133. of the Revised 4598
Code as amended by this act. 4599