

**As Reported by the House State and Local Government Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 340**

**Representative Cupp**

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

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**A BILL**

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

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

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

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

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

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

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

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

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

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

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

**Sec. 940.01.** As used in this chapter: 121

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

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

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

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

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

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

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

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

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

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

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

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

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

uplands.	198
<del>(L)</del> <u>(K)</u> "Improvement" or "conservation works of improvement" means an improvement that is made under the authority established in division (C) of section 940.06 of the Revised Code.	199 200 201 202
<del>(M)</del> <u>(L)</u> "Land" has the same meaning as in section 6131.01 of the Revised Code.	203 204
<del>(N)</del> <u>(M)</u> "Manure," "operation and management plan," and "residual farm products" have the same meanings as in section 939.01 of the Revised Code.	205 206 207
<del>(O)</del> <u>(N)</u> "Voluntary nutrient management plan" has the same meaning as in section 905.31 of the Revised Code.	208 209
<u>(O) "Lead county" means the county in which the majority of the initial length of a proposed improvement would be located, as set forth in a petition, when the proposed improvement would be located in two or more counties.</u>	210 211 212 213
<u>(P) "Day" means calendar day.</u>	214
<b>Sec. 940.02.</b> There is hereby established in the department of agriculture the Ohio soil and water conservation commission. The commission shall consist of seven members of equal status and authority, six of whom shall be appointed by the governor with the advice and consent of the senate, and one of whom shall be designated by resolution of the board of directors of the Ohio federation of soil and water conservation districts. The directors of agriculture, environmental protection, and natural resources, the vice-president for agricultural administration of the Ohio state university, and an officer of the Ohio federation of soil and water conservation districts, or their designees, may serve as ex officio members of the commission, but without	215 216 217 218 219 220 221 222 223 224 225 226



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 <del>their</del> <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
<del>of supervisors of the soil and water conservation district.</del>	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
<b>Sec. 940.07.</b> (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 <u>boards of</u> 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 supervisor or other officer, employee, or agent of a soil and water conservation district as follows:

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

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

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

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

(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<sup>7</sup>. 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 use; and to have 726

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of this section. 784

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The board determines that the information that ~~it the~~ petition contains about the proposed improvement is insufficient 872  
to enable the ~~supervisors board~~ to proceed with the petition 873  
under this chapter ~~or if the~~ . 874  
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-two 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, 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

<u>(1) The petition;</u>	1047
<u>(2) The preliminary report;</u>	1048
<u>(3) Comments on the proposed improvement;</u>	1049
<u>(4) The protection of environmentally significant areas</u>	1050
<u>when those areas could be adversely affected by the construction</u>	1051
<u>of the proposed improvement and, if necessary, alternative plans</u>	1052
<u>providing for that protection and for construction of the</u>	1053
<u>proposed improvement.</u>	1054
<u>(D) The board may proceed with the project survey and</u>	1055
<u>design for a proposed improvement if both of the following</u>	1056
<u>apply:</u>	1057
<u>(1) The board finds that a proposed improvement is</u>	1058
<u>necessary and is conducive to the public welfare.</u>	1059
<u>(2) The board is reasonably certain that the benefits of</u>	1060
<u>the proposed improvement will outweigh its costs.</u>	1061
<del>Sec. 940.26 940.24. Upon approval by</del> <u>After a vote of the</u>	1062
<del>board of supervisors of a soil and water conservation district</del>	1063
<del>of a petition to proceed with a project survey and design for a</del>	1064
proposed improvement, the <del>supervisors board or their</del> <u>its</u>	1065
designee shall conduct all necessary surveys for the proposed	1066
improvement. In addition, the <del>supervisors board or their</del> <u>its</u>	1067
designee shall prepare plans for constructing the improvement	1068
<del>and shall prepare maps showing the location of the land that is</del>	1069
<del>proposed to be assessed in accordance with section 940.33 of the</del>	1070
<del>Revised Code for the improvement.</del>	1071
<del>The supervisors or their designee shall prepare</del>	1072
<del>specifications.</del> <u>The plans shall include all of the following:</u>	1073
<u>(A) Specifications for construction of the improvement</u> <del>and</del>	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



<u>and bounds survey.</u>	1163
<u>(B) In determining the estimated assessment on a parcel of</u>	1164
<u>land, the board or its designee shall do both of the following:</u>	1165
<u>(1) Use the information compiled in accordance with</u>	1166
<u>sections 940.24 to 940.26 of the Revised Code;</u>	1167
<u>(2) Consider, and incorporate when applicable, the</u>	1168
<u>following factors in the calculations:</u>	1169
<u>(a) Acreage of the parcel;</u>	1170
<u>(b) Volume of water produced by the parcel;</u>	1171
<u>(c) Distance of the parcel from the proposed improvement;</u>	1172
<u>(d) Percentage of the proposed improvement to be used by</u>	1173
<u>the parcel;</u>	1174
<u>(e) The construction of works that are determined to</u>	1175
<u>solely benefit the particular parcel;</u>	1176
<u>(f) Soil types of the parcel;</u>	1177
<u>(g) The county auditor's land value or current</u>	1178
<u>agricultural use value, if applicable, of the parcel;</u>	1179
<u>(h) Existing drainage infrastructure that can be</u>	1180
<u>incorporated into the proposed improvement and associated cost</u>	1181
<u>savings;</u>	1182
<u>(i) Any other factors pertinent to the proposed</u>	1183
<u>improvement and the watershed that will be affected by the</u>	1184
<u>proposed improvement;</u>	1185
<u>(j) Any benefits as defined in section 6131.01 of the</u>	1186
<u>Revised Code.</u>	1187
<u>(C) Unless the board determines for good cause that a</u>	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

<del>state needing the improvement;</del>	1276
<del>(E) In the case of an improvement involving the drainage</del>	1277
<del>of water, the effect on land below the improvement that may be</del>	1278
<del>caused by constructing the improvement and the sufficiency or</del>	1279
<del>insufficiency of the outlet that receives flow from the</del>	1280
<del>improvement;</del>	1281
<del>(F) Any other proper matter that will assist the board in</del>	1282
<del>approving or disapproving construction of the improvement.</del>	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
<u>promoting the economic, environmental, or social development of</u>	1299
<u>the area.</u>	1300
<u>(C) When, in the opinion of the board of county</u>	1301
<u>commissioners, it is necessary for the board to acquire real</u>	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, ~~and~~ 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  
in the journal.~~ 1453  
1454

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

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

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

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

~~(c) The resolution levying the assessments is approved in  
a referendum that is held pursuant to section 305.31 of the  
Revised Code.~~ 1466  
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~~(5) The (D) If an owner files an exception to the  
estimated assessment, the board, within thirty days of the date  
of the filing, shall establish a date and time for hearing the  
exception to the estimated assessments. The board may hear each  
owner's exception in an individual hearing or hear all  
exceptions in a single hearing. Not less than fourteen days  
prior to the hearing date, the clerk of the board shall notify  
each owner who filed an exception of the date and time of the  
owner's exception hearing. Upon hearing the objector's  
exceptions, the board may adopt a resolution amending and  
approving the final schedule of estimated assessments and shall  
enter it in the journal.~~ 1469  
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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. 940.34~~940.33. (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  
elected 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~~ 1624  
~~commissioners of the participating counties as clerk of the~~ 1625  
~~joint board. A majority of the county commissioners constituting~~ 1626  
~~the joint board constitutes a quorum. All decisions of the joint~~ 1627  
~~board shall be made by a majority vote of the county~~ 1628



~~commissioners constituting the joint board.~~ 1629

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

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

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

(2) Enter the findings of the joint board in the journal 1652  
of the board of county commissioners of the lead county; 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 the joint board shall constitute a quorum. All decisions of the joint board shall be made by a majority vote of the quorum present at a meeting of the joint board. 1658  
1659  
1660  
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(E) The director of natural resources shall be an ex officio member of the joint board and may participate, in person or through a designated representative, in deliberations and proceedings of the joint board. The director shall have no vote on any proceedings of the joint board except in the case of a tie for or against an improvement. If the director or the director's designee is not present at the proceeding, the director shall review the proceedings and cast the deciding vote within thirty days of the proceeding. A failure to cast a vote for or against the improvement within thirty days constitutes an affirmative vote for the improvement. The clerk shall record the final resolution of the tie. 1662  
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(F) Upon the creation of a joint board of county commissioners, the elected officials in the lead county, including the engineer, recorder, auditor, prosecutor, treasurer, judges, and clerk of the board of county commissioners, shall serve as the administrative officers for the joint board of county commissioners. 1674  
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~~Sec. 940.32 940.36. The county auditor and county treasurer of one of the counties represented by a joint board of county commissioners under section 940.31 of the Revised Code, to be designated by the joint board, shall ex officio become the fiscal agents of all the participating counties. Such~~ (A) The auditor of the lead county shall certify to the auditor of the other counties a schedule of any taxes or assessments to be levied for the improvement, and the auditor of such other county 1680  
1681  
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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) <u>(1)</u> "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
<del>(1)</del> <u>(a)</u> The watershed or entire land area drained or	1824
affected by the improvement;	1825
<del>(2)</del> <u>(b)</u> The total volume of water draining into or through	1826
the improvement and the amount of water contributed by each land	1827
owner;	1828
<del>(3)</del> <u>(c)</u> The use to be made of the improvement by any	1829
owner, public corporation, or the state.	1830
<u>(2)</u> "Benefit" or "benefits" includes, <u>but is not limited</u>	1831

<u>to</u> , any or all of the following factors: <del>elimination</del>	1832
<u>(a) Elimination</u> or reduction of damage from <del>flood</del>	1833
<del>flooding</del> ; <del>removal</del>	1834
<u>(b) Removal</u> of water conditions that jeopardize public	1835
health, safety, or welfare; <del>increased</del>	1836
<u>(c) Increased</u> value of land resulting from <del>the an</del>	1837
improvement; <del>use</del>	1838
<u>(d) The use</u> of water for irrigation, storage, regulation	1839
of stream flow, soil conservation, water supply, or any other	1840
<u>incidental</u> purpose <del>incidental thereto</del> ; <del>providing</del>	1841
<u>(e) Providing</u> an outlet for the accelerated runoff from	1842
artificial drainage <del>whenever the</del> <u>if a</u> stream, watercourse,	1843
channel, or ditch <u>that is</u> under improvement is called upon to	1844
discharge functions for which it was not designed <del>by nature</del> ; <del>it</del>	1845
<del>being the legislative intent that uplands</del> . <u>Uplands</u> that have	1846
been removed from their natural state by deforestation,	1847
cultivation, artificial drainage, urban development, or other	1848
<del>man made causes</del> <u>human methods</u> shall be considered <del>as to be</del>	1849
benefited by an improvement <u>that is</u> required to dispose of the	1850
accelerated flow of water from the uplands.	1851
(G) "Environmentally significant areas" mean natural land	1852
or water areas that in some degree retain or have reestablished	1853
their natural character or have other features of scientific or	1854
educational interest such as rare or endangered plant and animal	1855
populations or geologic, scenic, or other natural features and,	1856
because of their values and functions, contribute to the	1857
community's general welfare.	1858
<u>(H) "Days"</u> 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; 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, report, or schedule filed in any improvement proceedings may be amended as a petition may be amended, as provided in this section not more than twenty-one days after the view required by section 6131.07 of the Revised Code and shall include the information required by section 6131.04 of the Revised Code along with the amendment.~~ 1950  
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(C) If the petition was filed by the county under division (D) of section 6131.04 of the Revised Code, any proposed amendment to the petition shall be filed with the clerk of the court of common pleas or with the board appointed under that division. If the amendment is filed with the clerk of the court of common pleas, the court shall hear the amendment pursuant to the rules and laws relating to civil procedure. 1957  
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**Sec. 6131.06.** (A) The petitioner shall file with the petition referred to in section 6131.04 of the Revised Code a bond in the ~~penal~~ sum of one thousand five hundred dollars, plus the sum of ~~two~~ five dollars for each parcel of land in excess of two hundred parcels ~~averred in the petition to be benefited, with at least two sureties who are freeholders of the county, or with surety by a surety company authorized to do business in this state, or with cash that are listed in the petition as lands that will benefit from the improvement.~~ 1964  
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(B) The bond shall be made payable to the county, to the credit of the general drainage improvement fund or a special fund created for the proposed improvement, and conditioned to pay the cost of notices, plus any other incidental expenses, except the costs incurred by the engineer in making his preliminary reports all costs associated in preparing for the view and first hearing if the ~~prayer of the~~ petition is not 1973  
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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.** ~~¶~~ (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  
the date that it has fixed for the filing of the reports, plans,  
and schedules by the engineer and adjourn the proceedings from  
time to time, if necessary, thereafter. No change in the route  
or termini of any proposed improvement shall be made, no  
branches, laterals, or spurs shall be granted, and no change  
shall be made in the nature of the work proposed after the first  
hearing is completed, except upon application of an interested  
owner affected by the proposed improvement and upon notice given  
to all owners affected by the change, as provided in sections  
6131.01 to 6131.64 of the Revised Code. All the findings and  
orders of the board shall be entered in its journal.~~

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

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

(E) If the board finds for the decides to proceed with a  
petition for a proposed improvement, and if the improvement is  
being undertaken through the joint efforts and cooperation of  
the board and any federal or state agency, and if the federal  
regulations, state agency rules, or other procedures of the



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  
~~tilled;~~ 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. ~~See~~ 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  
~~his intention 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 his intention to pay in cash. If he does not give notice~~ 2721  
~~of his intention 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  
~~his favor, 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~~ 2746

~~and damages, and all claims for compensation for land or other~~ 2747  
~~property necessary to be taken, and all claims for damages by~~ 2748  
~~reason of a proposed improvement not listed in the engineer's~~ 2749  
~~schedule of damages, shall be filed~~ with the clerk of the board 2750  
of county commissioners as provided in section 6131.16 of the 2751  
~~Revised Code on or not less than five days~~ before the date of 2752  
the final hearing in the proceedings to construct the 2753  
improvement. 2754

~~All exceptions to the engineer's schedules and all claims~~ 2755  
(B) An owner shall include with an exception or claim for 2756  
compensation or damage ~~shall describe the land, a part of which~~ 2757  
~~is the nature of the exception or claim, the amount claimed, if~~ 2758  
any, and the identity of the property claimed to be taken or 2759  
~~damaged, and shall describe the nature of and the reasons for~~ 2760  
~~the claim asked to be paid to each claimant.~~ 2761

**Sec. 6131.19.** (A) ~~At the final hearing, or at such time to~~ 2762  
~~which said the final hearing is adjourned to hear claims for~~ 2763  
compensation or damages, the board of county commissioners shall 2764  
hear any competent evidence offered by any ~~of the interested~~ 2765  
~~owners affected owner~~ upon the county engineer's estimate of 2766  
damages and upon any claim filed for compensation or damages. 2767

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

(C) If the board of county commissioners awards additional 2775  
compensation to any owner, the board shall enter its findings in 2776

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

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

**Sec. 6131.21.** ~~(A) At the final hearing on a proposed~~ 2796  
~~improvement, after hearing all the evidence offered in the~~ 2797  
~~proceedings and after receiving and considering all the~~ 2798  
~~schedules, plans, and reports filed by the county engineer, the~~ 2799  
~~board of county commissioners shall review and reconsider the~~ 2800  
~~its former order made by it finding in favor of the to proceed~~ 2801  
~~with project survey and design for the proposed improvement and~~ 2802  
~~shall either affirm its former order and proceed to confirm the~~ 2803  
~~assessments and order the letting of the contract or shall set~~ 2804  
~~aside its former order and dismiss the petition. At the final~~ 2805  
~~hearing, if the board finds that the cost of the improvement~~ 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 2863

actual view of the premises, shall amend and correct the 2864  
assessments, and the assessments so amended or corrected shall 2865  
be approved by the board. ~~That part of the assessment that is~~ 2866  
~~assessed~~ 2867

(2) An assessment for benefits to the general public 2868  
because the improvement is conducive to the public welfare shall 2869  
be paid by the public and shall be assessed against the county 2870  
payable from the general fund. ~~Such part of the~~ 2871

(3) An assessment ~~as is~~ found to benefit state roads or 2872  
highways shall be assessed against the state payable from motor 2873  
vehicle revenues. ~~Such part of the~~ 2874

(4) An assessment ~~as is~~ found to benefit county roads or 2875  
highways shall be assessed against the county payable from motor 2876  
vehicle revenues. ~~Such part of the~~ 2877

(5) An assessment ~~as is~~ found to benefit any ~~public~~ 2878  
~~corporation or~~ political subdivision of the state shall be 2879  
assessed against the ~~public corporation or~~ political subdivision 2880  
and shall be paid out of the general funds or motor vehicle 2881  
revenues of the ~~public corporation or~~ political subdivision ~~of~~ 2882  
~~the state~~, except as otherwise provided by law. ~~The board shall~~ 2883  
~~approve and confirm~~ 2884

(C) Upon approving the assessments, the board shall ~~order~~ 2885  
do all of the following: 2886

(1) Order the engineer to receive bids for the 2887  
construction of the proposed improvement, and ~~shall fix~~ the 2888  
date, time, and place for the receiving of bids, which shall be 2889  
not less than ~~twenty-five~~ thirty days after the date of the 2890  
order. ~~The board shall determine;~~ 2891

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

~~shall determine;~~ 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, ~~—~~ 2977  
~~as 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

<del>(A)</del> <u>(1)</u> Is the improvement necessary?	2981
<del>(B)</del> <u>(2)</u> Will the improvement be conducive to the public welfare?	2982 2983
<del>(C)</del> <u>(3)</u> Is the cost of the improvement greater than the benefits conferred?	2984 2985
<del>(D)</del> <u>(4)</u> Is the route, termini, or mode of construction the best to accomplish the purpose of the improvement?	2986 2987
<del>(E)</del> <u>(5)</u> Are the assessments levied according to benefits?	2988
<del>(F)</del> <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
<b>Sec. 6131.27.</b> If an appeal is <del>perfected by filing the bond and statement provided in</del> <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 <del>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</del> <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
<b>Sec. 6131.28.</b> 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



<del>(A)</del> <u>(1)</u> Any taxes levied and collected for ditch and drainage purposes under county levies, not by law otherwise disposed of;	3280 3281 3282
<del>(B)</del> <u>(2)</u> The proceeds of all bonds issued and sold under sections 6131.01 to 6131.64, inclusive, of the Revised Code;	3283 3284
<del>(C)</del> <u>(3)</u> The collections from all special assessments for benefits to property, as provided in such sections;	3285 3286
<del>(D)</del> <u>(4)</u> Such other funds as by law are provided to be paid therein.	3287 3288
<b>Sec. 6131.51.</b> <u>(A)</u> All costs and expenses of improvements under <del>sections 6131.01 to 6131.64 of the Revised Code</del> <u>this chapter</u> , including contract prices of construction and the costs of locating the improvement, <del>shall</del> <u>may</u> be paid from the general drainage improvement fund. <del>No warrants shall be drawn to be paid from the fund unless it contains a sufficient amount not otherwise specifically appropriated to pay them.</del>	3289 3290 3291 3292 3293 3294 3295
<u>(B)</u> The letting and approving of any contract for an improvement shall be considered a specific appropriation of the amount of the obligation, and that amount shall be set apart for the purpose of the payment and contingently charged against the fund. If at any time the fund contains the proceeds of bonds or notes issued and sold under such sections, the fund shall not be depleted below the obligations incurred by the bond or note issue unless assessments or levies have been made or ordered made in sufficient amount to redeem the bonds or notes as they fall due. If at any time obligations legally incurred exceed the amount of the drainage improvement fund, an amount of the general revenue funds in the county treasury equal to the deficiency, unless otherwise appropriated, may by resolution of	3296 3297 3298 3299 3300 3301 3302 3303 3304 3305 3306 3307 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 3369  
an action in the court of common pleas of the county wherein ~~his~~ 3370  
the owner's land is located, against the board of county 3371  
commissioners in its official capacity, to recover any tax or 3372  
assessment ~~therefor, if paid,~~ to enjoin any tax, assessment, or 3373  
levy ~~therefor upon his~~ the owner's lands, to recover for any 3374  
damages sustained, or for compensation for any property taken. 3375  
~~The owner's rights and remedies in the action shall be the same~~ 3376  
~~as for any like demand. In the action the~~ 3377

(B) The board may plead and prove the value of any actual 3378  
benefit to the land by reason of the improvement ~~in litigation.~~ 3379

(C) The rights granted by this section shall be in 3380  
addition to all other rights provided by law. 3381

**Sec. 6131.60.** If one or more members of a board of county 3382  
commissioners are petitioners for an improvement or own land 3383  
that will be taken, benefited, or damaged by the improvement 3384  
petitioned for, the clerk of the board of county commissioners 3385  
shall notify the judge of the court of common pleas of the 3386  
county who shall within ten days appoint as many disinterested 3387  
~~freeholders~~ owners of the county as are necessary to take the 3388  
place of the interested members. ~~The appointees shall not be~~ 3389  
~~related by blood or affinity to the interested members. They~~ 3390  
~~shall before acting be sworn to perform faithfully and~~ 3391  
~~impartially the duties of the members in the matter of the~~ 3392  
~~improvement, which oath shall be signed by them and by the~~ 3393  
~~officer before whom the same is taken and filed with the clerk.~~ 3394  
~~Upon appointment and qualification the appointee~~ The appointees 3395  
~~shall, in the proceedings upon the improvement,~~ perform all the 3396  
duties of the disqualified members and ~~shall~~ may receive from 3397  
the general drainage improvement fund the same per diem rate as 3398

~~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