
DRAFT GRAYLAND FHRP REVIEW COMMENTS

WASHINGTON STATE DEPARTMENT OF ECOLOGY REVIEW COMMENTS

The Grayland FHRP was reviewed by the representatives of the Washington State Department of Ecology's Floodplain Management Division and Shorelands and Water Resources Program. Their review comments and Grays Harbor County's responses are detailed as follows:

1. Although listed in the scope of work, the potential for tsunami hazards has not been addressed in the Draft FHRP.

The potential for tsunami hazards has been discussed in the Federal Emergency Management Flood Insurance Study for Grays Harbor County, Washington, based on the report: US Department of the Army, Corps of Engineers, Waterways Experiment Station, *Type 16 Flood Insurance Study: Tsunami Predictions for the West Coast of the Continental United States* (James R. Houston and Andrew W. Garcia, Vicksburg, Mississippi, December 1978). The elevation of "tsunami-caused flooding at the 100-year recurrence level is lower than that caused by winter storms." Tsunamis are not considered to be a significant hazard for the community of Grayland. The community of Grayland is afforded a reasonable level of protection by the coastal dunes, and it is unlikely that tsunami wave action could translate through the relatively shallow Grays Harbor to affect the main drainage channel.

2. Text for two of the regulations in Appendix B, Regulatory Programs, was omitted in the draft. Include a description of the County Floodplain Management Ordinance and the County Stormwater Management Ordinance.

Grays Harbor County Comprehensive Zoning Ordinance No. 38, Chapter 13.07, Combining Districts, addresses floodplain districts and floodplain management regulations. It is designed to "control the use, alteration, modification, and construction of and on lands which are subject to periodic flooding and to carry out the mandate contained in the National Flood Insurance Program 42 U.S.C. 40013-4128." This combining district applies to all areas of special flood hazard within the jurisdiction of Grays Harbor County as identified by the Federal Emergency Management Agency (FEMA) on its Flood Insurance Rate Maps (FIRMs). Note: There is at least one area identified by the FHRP advisory committee that is subject to frequent flooding that is not within the FIRM maps. This is the area in the vicinity of the Grayland Post Office. Using its State Environmental Policy Act (SEPA) authority, the County should require compliance with the combining districts for this area and any others subsequently identified.

To reduce flood hazards, the following methods and provisions are instituted by the ordinance:

- A permit is required for all development within the floodplain. This shall include the elevation of the lowest habitable floor of the structure in relation to mean sea level, the elevation of any floodproofing, certification of floodproofing

of nonresidential structures, and descriptions of watercourse alterations related to the development.

- The Planning Director shall assure that development proposals meet the provisions for flood hazard reduction. This includes utility system standards, construction methods, minimum elevation standards, floodproofing, and the anchoring of structures.
- Provisions for flood hazard reductions in floodways and coastal high hazard areas are also contained in the Combining District standards. These provisions are intended to lessen the special hazards resulting from the velocity of debris-carrying flood waters and from tidal surges that have a high potential for producing projectiles and/or causing erosion.

No County Stormwater Management Ordinance exists; however, stormwater regulations are implemented through the Uniform Building Code, SEPA, the County Zoning Code, and the County Subdivision Ordinance.

The Grays Harbor County Utilities Comprehensive Plan Phase I states, "In its subdivision ordinance, the County has stormwater management regulations which limit the impacts of new development. These regulations apply to long, short, and large lot subdivision developments, as well as mobile home parks, recreational vehicle parks, and commercial and industrial developments. The design storm used is the 25-year, 24-hour storm...The County's current stormwater regulations are deficient in three areas: 1) offsite analysis of stormwater facilities, 2) stormwater design standards for closed drainage basins, and 3) enforcement and maintenance of stormwater facilities. Offsite analysis is necessary to determine downstream impacts to be avoided or mitigated. Design standards for closed basins are particularly important along the coast, where the areas between the dune ridges have no drainage outlet and pond water for long periods. New stormwater management facilities have no provision for perpetual maintenance. The County should determine whether revisions to the drainage regulations are warranted."

3. The relationship between the Shoreline Master Plan and the Floodplain Ordinance should be clarified.

Combining Districts (the County's floodplain ordinance) applies to areas identified by FEMA as special flood hazards (one percent chance of flooding each year). Section 13.07.070 of Combining Districts requires the Planning Director to assure compliance with the State of Washington Shoreline Management Act.

4. The FHRP should recommend that RCW 86.16 (County Ordinance) be upgraded to meet the State's prohibition of new or substantially improved development in floodways.

There are no floodways (as opposed to floodplains) in the Grayland FHRP planning area, so this recommendation does not apply. Development is presently not prohibited in floodplains by the State or by the County.

5. The FHRP should recommend that the County coordinate all improvement projects with the State Park and Recreation Department to minimize impacts.

The County intends to follow through with this coordination where appropriate.

6. The FHRP should recommend that the County identify specific sites for potential buyouts of homes, buildings, and property as a preemptive move to mitigate flooding impacts. There will likely be federal funds available through the reform of the National Flood Insurance Act for the purpose of buying out sites before flooding occurs. The law for this reform was passed last September, but the regulations have not been completed. It is anticipated that these regulations will be finalized by the end of this fiscal year.

The County concurs with these comments. The advisory committee has identified the vicinity of the Grayland Post Office, particularly immediately west of the main drainage channel, as being an area with recurring flood damages to homes. This is an area for consideration for buy-out.

7. One of the many valuable functions provided by wetlands is the storage of flood waters. Wetlands in and out of the floodplain both provide this function, which should be recognized and protected. The City and/or County should prepare and adopt a wetlands protection ordinance to facilitate the preservation of wetlands, particularly for their flood storage benefits. Existing County, State, and Federal regulations are not adequate to achieve this effort which should be addressed at the local level. Policies and guidance should be replaced with specific regulatory standards.

The plan describes the value of wetlands and the need to protect them. The County does not have a wetland protection ordinance. Wetlands are regulated under authority in the Shoreline Master Program, the flood ordinance, the Uniform Building Code, and SEPA. The County has passed an ordinance defining wetlands and identifying them as critical areas pursuant to the Growth Management Act. The intent of the Planning Department is to prepare an ordinance that defines critical areas as sensitive areas under the SEPA ordinance clarifying and providing additional authority for wetland protection. The position of the advisory committee is that wetlands should be protected and that there is adequate authority to protect wetlands if existing regulations are aggressively enforced.

8. The criteria for priority wetlands described in the Wetland Resources section (p. 3-27), should include any wetland which provides flood storage or retention/detention of waters in the planning area. This criterion should be reflected in the development of a wetlands protection ordinance.

The definition is so noted. See response to comment number 7.

9. A floodplain preservation ordinance should be prepared to prohibit new development within floodplains. A zero-rise standard should be specified for the entire floodplain, not just the floodway.

The committee has not supported this position, and is not likely to support it, because a significant portion of the Grayland area is in the 100-year floodplain. The committee recognized that there is not a high rate of growth in the area, and based on their experience, the committee is most concerned about conveyance of runoff in the floodplain for new and existing development.

10. Funding of the elements recommended for Regulation of Development in Floodplains (p. 6-5 through 6-7) should be approved and implemented concurrently with any capital improvements. These policies should be adopted as requirements.

It is the intent of the County to fund these elements subject to availability of revenues and competing demands for them in the annual budget process.

GRAYLAND FHRP ADVISORY COMMITTEE REVIEW COMMENTS

The advisory committee requested the following clarifications and replacements to the Draft FHRP:

1. The advisory committee would like to clarify that although reports have not been filed with FEMA, *there have been damages to properties in the area as a result of flooding.*

Section 5—Flood Damage History. In the Record of Historic Flood Events, it is stated that “although no claims have been filed by policy holders in the Grayland Basin, it is apparent from the flooding reports voiced by the community and the recollections of longtime residents of Grayland that flooding is a regular occurrence.”

2. The Drainage District will have ongoing needs for the main channel and will rely on the Flood Control Assistance Account Program (FCAAP) funding for them.

Comment noted.

CLARIFICATION OF FIGURES, TABLES, AND TEXT

Figure 5-1: Historic Flooding Areas and Drainage Courses was revised to show the existing drainage corridors west of SR 105. It is imperative to protect flow through these areas as additional development occurs.

Table 6-1: Alternative Evaluation Criteria was amended to include alternative description headings the day after the Draft FHRP was released. Replacement copies should have reached

all reviewers in time to be inserted in the plan; however, this table is reprinted here in case any copies of the Draft FHRP were not previously updated.

Section 4: Goals and Objectives was developed as a tool to guide the analysis and planning process during the development of the FHRP. All of the goals of the plan were met, using the objectives listed for each goal as an "action item" to deliver the desired result. The objectives were courses of action and further investigation that were set out before work on the plan began. It was never the intention of the participants in the development of this plan to meet all of the objectives, but rather to use these objectives as a means of considering flood hazard improvement options for pursuit or elimination. Many of the objectives were found to be unfeasible during development of the plan.

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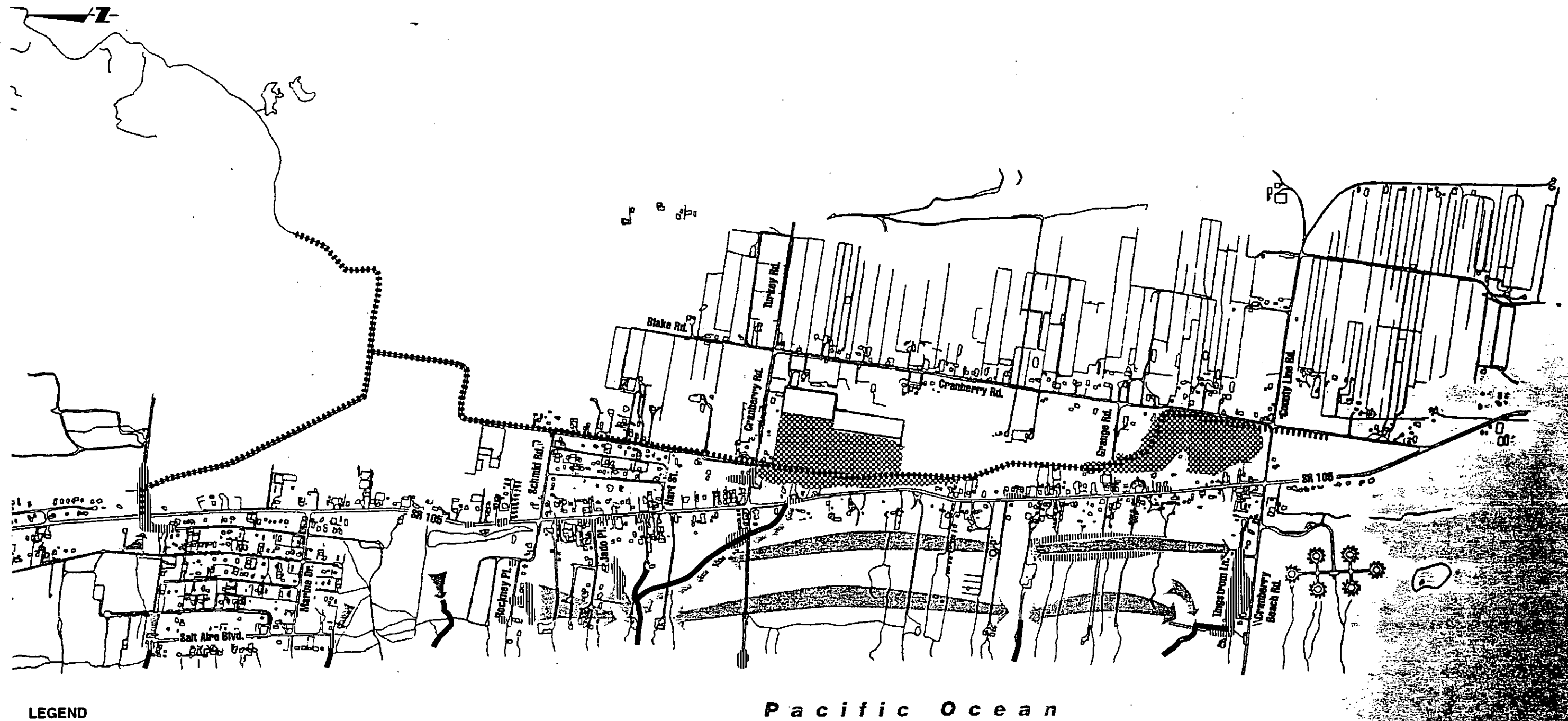


Figure 5-1
Historic Flooding Areas
and Drainage Courses

Table 6-1
Alternative Evaluation Criteria
Grayland Flood Hazard Reduction Plan
Grays Harbor County

Proposed Drainage Improvement Project Alternatives Ranking																					
Ranking Criteria Categories	Main Drainage Ditch											Local Drainage Issues: Example Projects and General Recommendations									
	Non-Structural			Structural								Non-Structural		Structural							
	Regulate Development in Floodplain and Impacts to Drainage Courses	Develop Water Quality Monitoring Program/Protect Agricultural and Natural Resources	Develop Flood Hazard and Water Quality Public Education Programs	Elevate Affected Homes and Businesses	Elevate Affected Bridges	Widen Portions of Channel	Construct Local Levees	Improve Tide Gates	Install Pump Station at Tide Gates	Excavate Entire Channel to Increase Cross-Section	Construct Detention Ponds	In Cases where Structural Improvements Do Not Help Individual Properties, Elevate Affected Homes and Businesses	Create Local Drainage District for Properties West of SR105; Maintain Drainage Courses to the Ocean	Tingsstrom Lane Area: Convey Runoff to Ocean Outfall along County Line Road	Tingsstrom Lane Area: Convey Runoff to Ocean Outfall along Private Property	Tingsstrom Lane Area: Convey Runoff to Main Drainage Channel	Post Office Site: Elevate Road to Eliminate Sag/Improve Conveyance to Main Channel	Post Office Site: Elevate Road to 10-Year Event Level/Improve Conveyance to Main Channel	Post Office Site: Elevate Road to 100-Year Event Level/Improve Conveyance to Main Channel	Muntiny Lane/Lampighter: Convey Runoff to Main Drainage Channel	Muntiny Lane/Lampighter: Convey Runoff to Ocean Outfall
Public Safety and Health Protection Improved Emergency Access Reduced Road/Structure Flooding	Medium	Low	Medium	Medium	Medium	Low	NSB	NSB	NSB	NF	NF	Medium	High	High	High	Medium	Medium	High	High	High	Medium
Flood Hazard Reduction Benefit Flooding Frequency/Duration Flood Prone Area Reduction Frequent Flood Damage Reduction	Medium	Low	Medium	Medium	Low	Low															
Environmental/Socio-Economic Benefit Cranberry Farm Preservation Water Quality Protection Fish/Wildlife Enhancement	High	High	Medium	Low	Low	Low															
Implementation Feasibility Land Owner Acceptance Funding Potential Permitting/Legal Issues	High	High	High	Medium	Medium	Low															
Project's Compatibility with Drainage District Plans County Programs/Ordinances State Regulations	High	High	High	High	High	Medium															
Total Project Ranking	High	High	High	Medium	Low	Low	NSB	NSB	NSB	NF	NF	Medium	High	Medium	High	Low	Medium	High	Low	High	Medium
Notes: NSB = No Significant Benefit NF = Not Feasible																					

GRAYS HARBOR COUNTY

**Grayland Flood Hazard Reduction Plan Advisory Committee Meeting
Notes**

MEETING #4

6/22/95

GRAYS HARBOR COUNTY

6/22/95 Grayland Flood Hazard Reduction Plan Advisory Committee Meeting Notes

006787.O1 notes by William E. Derry

OBJECTIVES

- Understand process for forming a special district
- Determine interest in forming a district
- Obtain final comments on draft report

MEETING FORMAT

The meeting began with a general group discussion clarifying the recommendations in the plan. General support for the plan was expressed.

This was followed by a presentation by Bill Derry of the process for forming a special district. A one-page summary of the process was passed-out by Bill along with 2 copies of the full RCW text. This was followed by substantial discussion and questions about the process. The group was then asked whether or not they wanted to pursue formation of a special district. Near the end of the meeting the group was again asked for any final comments on the draft report.

RESULTS

The group decided to pursue formation of a special district for the area west of the Highway. The district would extend from the County line at the south to the boundary of the existing drainage district north of Salt Aire Shores. The group agreed to meet in July to discuss this further.

General support was expressed for the draft document and the recommendations. Comments included the following:

- Although not reported to FEMA or other government agencies, there have been damages to properties in the area as a result of flooding.
- The drainage district will have on-going maintenance needs for the main channel and will rely on FCAAP funding for them.

After the end of the meeting, James O'Hagen offered the following comments while recognizing that they differed from the group's consensus:

- Flood plain and wetland regulations should include variance procedures to allow projects that enhance the floodplain functions.

- Drainage from the Lamplighter area along SR-105 should go to the west rather than into the Drainage District's system.
- Cranberry bogs could be modified to provide more detention of winter flood waters and reduction of floods.
- BMPs for cranberry farming in other states recommend short-term flooding of cranberry bogs.

SPECIAL DISTRICTS: PROCESS FOR FORMATION
refer to 85.38 RCW

I. Petition or Resolution

- A. Resolution by County Commissioners, or
- B. Petition
 - 1. Signed by 10
 - 2. Describe in general terms
 - a. object or reason for forming
 - b. list projects
 - c. boundaries
 - d. other
 - 3. Bond for \$5,000

II. Engineer's Report

- A. Boundaries and feasibility
- B. Within 90 days

III. Public Hearing

- A. Advertise twice
- B. Commissioners Conduct Hearing
- C. To continue, must find:
 - 1. conducive to public health, convenience and welfare
 - 2. special benefit to majority of lands
 - 3. improvements are feasible, economical and benefits exceed costs

IV. Elections

- A. County Auditor prepares list of eligible voters and conduct elections
- B. Approved by simple majority
- C. If approved, County may charge district for cost of engineers report and election related costs

85.32.190 Judicial review—Scope of trial. At the trial the court shall determine whether the board has acted within its discretion and has correctly construed and applied the law. If it finds that it has, the findings and decision of the board shall be affirmed; otherwise it shall be reversed or modified. The judgment of the court may change, confirm, correct, or modify the values of the property in question as shown upon the roll, and a certified copy thereof shall be filed with the county auditor, who shall change, modify or correct as and if required. [1961 c 131 § 20.]

85.32.200 Appellate review. Appellate review may be sought as in other civil cases: PROVIDED, That such review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals on such review may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision, if required. [1988 c 202 § 84; 1971 c 81 § 169; 1961 c 131 § 21.]

Severability—1988 c 202: See note following RCW 2.24.050.

85.32.210 Levies are for continuous benefits. The dollar rate levy returns collected from time to time under this chapter are solely assessments for benefits received continuously by the benefited properties, calculated in the manner specified in this chapter as a just and equitable way for all benefited property to share the expense of such required service. [1973 1st ex.s. c 195 § 127; 1961 c 131 § 22.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

85.32.220 Annual estimate of costs. The board of any drainage district proceeding under this chapter shall, on or before the first day of November of each year, make an estimate of the costs reasonably anticipated to be required. [1961 c 131 § 23.]

85.32.900 Powers and duties of chapter are supplemental. The rights, powers and duties granted and imposed by this chapter are supplemental and in addition to any existing rights, powers and duties of drainage districts established under this title. [1961 c 131 § 24.]

85.32.910 Severability—1961 c 131. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1961 c 131 § 25.]

Chapter 85.36

POWERS OF SPECIAL DISTRICTS

(Formerly: Consolidation of districts)

Sections

- 85.36.005 Certain powers and rights governed by chapter 85.38 RCW.
85.36.025 Special assessments—Budgets—Alternative methods.

(1994 Ed.)

85.36.040 Special assessment bonds.

85.36.050 Annexation of territory—Consolidation of special districts—Suspension of operations—Reactivation.

Special district creation and operation: Chapter 85.38 RCW.

85.36.005 Certain powers and rights governed by chapter 85.38 RCW. Consolidated diking districts, drainage districts, diking improvement districts, and drainage improvement districts shall possess the authority and shall be created, district voting rights shall be determined, and district elections shall be held as provided in chapter 85.38 RCW. [1985 c 396 § 35.]

Severability—1985 c 396: See RCW 85.38.900.

85.36.025 Special assessments—Budgets—Alternative methods. RCW 85.38.140 through 85.38.170 constitute a mutually exclusive alternative method by which consolidated diking districts, drainage districts, diking improvement districts, and/or drainage improvement districts in existence as of July 28, 1985, may measure and impose special assessments and adopt budgets. RCW 85.38.150 through 85.38.170 constitute the exclusive method by which consolidated diking districts, drainage districts, diking improvement districts, and/or drainage improvement districts created after July 28, 1985, may measure and impose special assessments and adopt budgets. [1985 c 396 § 28.]

Severability—1985 c 396: See RCW 85.38.900.

85.36.040 Special assessment bonds. Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW. [1986 c 278 § 27.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.36.050 Annexation of territory—Consolidation of special districts—Suspension of operations—Reactivation. Consolidated diking districts, drainage districts, diking improvement districts, and/or drainage improvement districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW. [1986 c 278 § 15.]

Severability—1986 c 278: See note following RCW 36.01.010.

Chapter 85.38

SPECIAL DISTRICT CREATION AND OPERATION

Sections

- 85.38.001 Actions subject to review by boundary review board.
85.38.005 Purpose.
85.38.010 Definitions.
85.38.020 Establishment of special districts—Petition or resolution—Contents.
85.38.030 Investigation of proposed boundaries and districts—Report.
85.38.040 Proposed special districts—Public hearing—Notice.
85.38.050 Public hearing—Elections.
85.38.060 Elections—Notice—Costs.
85.38.070 Governing board—Terms of office—Election—Appointment—Vacancies—Qualifications.
85.38.080 Governing body—Bond.
85.38.090 Governing body—Reduction in size.
85.38.100 General elections.
85.38.105 Voting rights.
85.38.110 Presumed eligible voters' list—Notice of requirements of voting authority—Copy of voter's list to county auditor.
85.38.115 Elections—When not required.

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- 85.38.120 Elections—Auditor's assistance—Notice—Auditor's costs.
- 85.38.125 Elections—Auditor to conduct—Election by mail.
- 85.38.130 Election officials—Duties—Voting hours—Challenged ballots—Absentee ballots.
- 85.38.140 Special district financing—Alternative method.
- 85.38.145 Rates and charges.
- 85.38.150 Special assessments—Valuation—Assessment zones—Criteria for assessments.
- 85.38.160 Systems of assessment—Hearing—Notice—Adoption of ordinance—Appeals—Review—Emergency assessment.
- 85.38.170 Budgets—Special assessments—Notice—Delinquent special assessments—Collection fee.
- 85.38.180 Special districts—Powers.
- 85.38.190 Construction of improvements—When public bidding not required—Use of district employees or volunteers.
- 85.38.200 Annexation of contiguous territory—Procedures.
- 85.38.210 Consolidation of contiguous districts—Procedures.
- 85.38.213 Withdrawal of area within city or town.
- 85.38.215 Transfer of territory from one special district to another.
- 85.38.217 Drainage and drainage improvement districts—Removal of area by first class city—Notice.
- 85.38.220 Suspension of operations—Procedure—Reactivation.
- 85.38.225 Alternative dissolution procedure—Drainage and drainage improvement districts—Conditions.
- 85.38.230 Special assessment bonds authorized.
- 85.38.240 Special assessment bonds—Issuance—Terms.
- 85.38.250 Special assessment bonds—Guaranty fund.
- 85.38.260 Special assessment bonds—Refunding.
- 85.38.270 Special assessment bonds issued prior to July 1, 1986.
- 85.38.900 Severability—1985 c 396.

85.38.001 Actions subject to review by boundary review board. The establishment of a drainage district, drainage improvement district, or drainage or diking improvement district may be subject to potential review by a boundary review board under chapter 36.93 RCW. Annexations, consolidations, or transfers of territory by a drainage district, drainage improvement district, or drainage or diking improvement district may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 64.]

85.38.005 Purpose. The purpose of this chapter is to provide uniform and simplified procedures for the creation, elections, and operations of various special districts that provide diking, drainage, and flood control facilities and services. The legislature finds that it is in the public interest to clarify and standardize the laws relating to these special districts. [1985 c 396 § 1.]

85.38.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Governing body" means the board of commissioners, board of supervisors, or board of directors of a special district.

(2) "Owner of land" means the record owner of at least a majority ownership interest in a separate and legally created lot or parcel of land, as determined by the records of the county auditor, except that if the lot or parcel has been sold under a real estate contract, the vendee or grantee shall be deemed to be the owner of such land for purposes of authorizing voting rights. It is assumed, unless shown otherwise, that the name appearing as the owner of property on the property tax rolls is the current owner.

(3) "Qualified voter of a special district" means a person who is either: (a) A natural person who is a voter under

general state election laws, registered to vote in the state of Washington for a period of not less than thirty days before the election, and the owner of land located in the special district for a period of not less than thirty days before the election; (b) a corporation or partnership that has owned land located in the special district for a period of not less than sixty days before the election; or (c) the state, its agencies or political subdivisions that own land in the special district or lands proposed to be annexed into the special district except that the state, its agencies and political subdivisions shall not be eligible to vote to elect a member of the governing board of a special district.

(4) "Special district" means: (a) A diking district; (b) a drainage district; (c) a diking, drainage, and/or sewerage improvement district; (d) an intercounty diking and drainage district; (e) a consolidated diking district, drainage district, diking improvement district, and/or drainage improvement district; or (f) a flood control district.

(5) "Special district general election" means the election of a special district regularly held on the first Tuesday after the first Monday in February in each even-numbered year at which a member of the special district governing body is regularly elected. [1991 c 349 § 1; 1986 c 278 § 41; 1985 c 396 § 2.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.020 Establishment of special districts—Petition or resolution—Contents. The establishment of a special district may be initiated by either petition of the owners of property located within the proposed special district, or by resolution of the county legislative authority or authorities within which the proposed special district is located.

A petition calling for the creation of a special district, which is signed by at least ten owners of land located within the proposed district, shall be filed with the county legislative authority within which a proposed special district, or the largest portion of a special district, is located. If the proposed special district is proposed to be located within more than one county, the county legislative authority receiving the petitions shall notify the other county legislative authorities of the proposal. The petition shall set forth in general terms: (1) The objects sought by the creation of the special district; (2) the projects proposed to be completed by the special district that will accomplish these objects; (3) the boundaries of the proposed special district, which may be stated in terms of sections, townships, and ranges; and (4) any other matters deemed material by the petitioners. The jurisdiction of the county legislative authority to proceed with consideration of the creation of the proposed special district shall not be affected by the form of the petition or allegations on the petition. The petition shall be accompanied by proof of land ownership that is sufficient in the opinion of the county legislative authority to evidence the ownership of land by the petitioners within the proposed special district. A petition calling for the creation of a special district shall be accompanied by a bond of five thousand dollars to defray the costs incurred by the county, or counties, in considering the creation of the special district.

A resolution proposing the creation of a special district shall contain the same items as are required and permitted to

be contained in a petition to create a special district. [1985 c 396 § 3.]

85.38.030 Investigation of proposed boundaries and districts—Report. Upon the filing of a valid petition or upon the adoption of the resolution, the county legislative authority shall direct the county engineer to investigate the proposed boundaries of the special district and the feasibility of the projects located in the county as proposed in the petition or resolution. The engineer shall report to the county legislative authority within ninety days of such direction on the proposed boundaries of the special district within the county and feasibility of that portion of the proposed project. If the proposed special district is located in more than one county, the county legislative authority of each county shall direct its county engineer to investigate and report on the proposal within its boundaries. [1985 c 396 § 4.]

85.38.040 Proposed special districts—Public hearing—Notice. The county legislative authority shall schedule a public hearing on the proposed special district if the county engineer's report indicates that the proposed projects are feasible. If the engineers of each of the counties within which a proposed special district is located indicate that the proposed projects are feasible, the county legislative authorities shall schedule a joint public hearing on the proposed special district. The county legislative authority may, on its own initiative, schedule a public hearing on the proposed special district if the county engineer's report indicates that the proposed projects are not feasible. The county legislative authorities of counties within which a proposed special district is located may, on their own initiative, schedule a joint public hearing on the proposed special district if one or more of the county engineers' reports indicate that the proposed projects are not feasible.

Notice of the public hearing shall be published in a newspaper of general circulation within the proposed special district, which notice shall be purchased in the manner of a general advertisement, not to be included with legal advertisements or with classified advertisements. This notice shall be published at least twice, not more than twenty nor less than three days before public hearing. Additional notice shall be made as required in RCW 79.44.040.

The notice must contain the following: (1) The date, time, and place of the public hearing; (2) a statement that a particular special district is proposed to be created; (3) a general description of the proposed projects to be completed by the special district; (4) a general description of the proposed special district boundaries; and (5) a statement that all affected persons may appear and present their comments in favor of or against the creation of the proposed special district. [1991 c 349 § 8; 1985 c 396 § 5.]

85.38.050 Public hearing—Elections. The county legislative authority or authorities shall conduct the public hearing at the date, time, and place indicated in the notice. Public hearings may be continued to other dates, times, and places specified by the county legislative authority or authorities before the adjournment of the public hearing. Each county legislative authority may alter those portions of

boundaries of the proposed special district that are located within the county, but if territory is added that was not described in the original proposed boundaries, an additional hearing on the proposal shall be held with notice being published as provided in RCW 85.38.040.

After receiving the public testimony, the county legislative authority may cause an election to be held to authorize the creation of a special district if it finds:

(1) That creation of the special district will be conducive to the public health, convenience and welfare;

(2) That the creation of the special district will be of special benefit to a majority of the lands included within the special district; and

(3) That the proposed improvements are feasible and economical, and that the benefits of these improvements exceed costs for the improvements.

If the proposed special district is located within two or more counties, the county legislative authorities may cause an election to be held to authorize the creation of the special district upon making the findings set forth in subsections (1) through (3) of this section.

The county legislative authority or authorities may also choose not to allow such an election to be held by either failing to act or finding that one or more of these factors are not met. [1991 c 349 § 9; 1985 c 396 § 6.]

85.38.060 Elections—Notice—Costs. The county legislative authority or authorities shall cause an election on the question of creating the special district to be held if findings as provided in RCW 85.38.050 are made. The county legislative authority or authorities shall designate a time and date for such election, which shall be one of the special election dates provided for in RCW 29.13.020, together with the site or sites at which votes may be cast. The persons allowed to vote on the creation of a special district shall be those persons who, if the special district were created, would be qualified voters of the special district as described in RCW 85.38.010. The county auditor or auditors of the counties within which the proposed special district is located shall conduct the election and prepare a list of presumed eligible voters.

Notices for the election shall be published as provided in RCW 85.38.040. The special district shall be created if the proposition to create the special district is approved by a simple majority vote of the voters voting on the proposition and the special district may assume operations whenever the initial members of the governing body are appointed as provided in RCW 85.38.070.

Any special district created after July 28, 1985, may only have special assessments measured and imposed, and budgets adopted, as provided in RCW 85.38.140 through 85.38.170.

If the special district is created, the county or counties may charge the special district for the costs incurred by the county engineer or engineers pursuant to RCW 85.38.030 and the costs of the auditor or auditors related to the election to authorize the creation of the special district pursuant to this section. Such county actions shall be deemed to be special benefits of the property located within the special district that are paid through the imposition of special assessments. [1991 c 349 § 10; 1985 c 396 § 7.]

85.38.070 Governing board—Terms of office—Election—Appointment—Vacancies—Qualifications. (1) Except as provided in RCW 85.38.090, each special district shall be governed by a three-member governing body. The term of office for each member of a special district governing body shall be six years and until his or her successor is elected and qualified. One member of the governing body shall be elected at the time of special district general elections in each even-numbered year for a term of six years beginning as soon as the election returns have been certified for assumption of office by elected officials of cities.

(2) The terms of office of members of the governing bodies of special districts, who are holding office on July 28, 1985, shall be altered to provide staggered six-year terms as provided in this subsection. The member who on July 28, 1985, has the longest term remaining shall have his or her term altered so that the position will be filled at the February 1992, special district general election; the member with the second longest term remaining shall have his or her term altered so that the position will be filled at the December, 1989, special district general election; and the member with the third longest term of office shall have his or her term altered so that the position will be filled at the December, 1987, special district general election.

(3) The initial members of the governing body of a newly created special district shall be appointed by the legislative authority of the county within which the special district, or the largest portion of the special district, is located. These initial governing body members shall serve until their successors are elected and qualified at the next special district general election held at least ninety days after the special district is established. At that election the first elected members of the governing body shall be elected. No primary elections may be held. Any voter of a special district may become a candidate for such a position by filing written notice of this intention with the county auditor at least thirty, but not more than sixty, days before a special district general election. The county auditor in consultation with the special district shall establish the filing period. The names of all candidates for such positions shall be listed alphabetically. At this first election, the candidate receiving the greatest number of votes shall have a six-year term, the candidate receiving the second greatest number of votes shall have a four-year term, and the candidate receiving the third greatest number of votes shall have a two-year term of office. The initially elected members of a governing body shall take office immediately when qualified as defined in RCW 29.01.135. Thereafter the candidate receiving the greatest number of votes shall be elected for a six-year term of office. Members of a governing body shall hold their office until their successors are elected and qualified, and assume office as soon as the election returns have been certified.

(4) The requirements for the filing period and method for filing declarations of candidacy for the governing body of the district and the arrangement of candidate names on the ballot for all special district elections conducted after the initial election in the district shall be the same as the requirements for the initial election in the district. No primary elections may be held for the governing body of a special district:

(5) Whenever a vacancy occurs in the governing body of a special district, the legislative authority of the county within which the special district, or the largest portion of the special district, is located, shall appoint a district voter to serve until a person is elected, at the next special district general election occurring sixty or more days after the vacancy has occurred, to serve the remainder of the unexpired term. The person so elected shall take office immediately when qualified as defined in RCW 29.01.135.

If an election for the position which became vacant would otherwise have been held at this special district election, only one election shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29.01.135 and shall serve both the remainder of the unexpired term and the succeeding term. A vacancy occurs upon the death, resignation, or incapacity of a governing body member or whenever the governing body member ceases being a qualified voter of the special district.

(6) An elected or appointed member of a special district governing body, or a candidate for a special district governing body, must be a qualified voter of the special district: PROVIDED, That the state, its agencies and political subdivisions, or their designees under RCW 85.38.010(3) shall not be eligible for election or appointment. [1991 c 349 § 11; 1987 c 298 § 2; 1986 c 278 § 42; 1985 c 396 § 8.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.080 Governing body—Bond. Each member of a governing body of a special district, whether elected or appointed, shall enter into a bond, payable to the special district. The bond shall be in the sum of not less than one thousand dollars nor more than five thousand dollars, as determined by the county legislative authority of the county within which the special district, or the largest portion of the special district, is located. The bond shall be conditioned on the faithful performance of his or her duties as a member of the governing body of the special district and shall be filed with the county clerk of the county within which the special district, or the largest portion of the special district, is located. [1987 c 298 § 3; 1985 c 396 § 9.]

85.38.090 Governing body—Reduction in size. (1) Whenever the governing body of a special district has more than three members, the governing body shall be reduced to three members as of January 1, 1986, by eliminating the positions of those district governing body members with the shortest remaining terms of office. The remaining three governing body members shall have staggered terms with the one having the shortest remaining term having his or her position filled at the 1987 special district general election, the one with the next shortest remaining term having his or her position filled at the 1989 special district general election, and the one with the longest remaining term having his or her position filled at the 1992 special district general election. If any of these remaining three governing body members have identical remaining terms of office, the newly calculated remaining terms of these persons shall be determined by lot with the county auditor who assists the special district in its elections managing such lot procedure. The

newly established terms shall be recorded by the county auditor.

(2) However, whenever five or more special districts have consolidated under chapter 85.36 RCW and the consolidated district has five members in its governing body on July 28, 1985, the consolidated district may adopt a resolution retaining a five-member governing body. At any time thereafter, such a district may adopt a resolution and reduce the size of the governing body to three members with the reduction occurring as provided in subsection (1) of this section, but the years of the effective dates shall be extended so that the reduction occurs at the next January 1st occurring after the date of the adoption of the resolution. Whenever a special district is so governed by a five-member governing body, two members shall be elected at each of two consecutive special district general elections, and one member shall be elected at the following special district general election, each to serve a six-year staggered term. [1991 c 349 § 12; 1985 c 396 § 10.]

85.38.100 General elections. General elections shall be held in each special district on the first Tuesday after the first Monday in February in each even-numbered year. The auditor of the county within which a special district, or the largest portion of a special district, is located may provide for special elections whenever necessary. [1991 c 349 § 5; 1985 c 396 § 11.]

85.38.105 Voting rights. (1) The owner of land located in a special district who is a qualified voter of the special district shall receive two votes at any election.

(2) If multiple undivided interests, other than community property interests, exist in a lot or parcel and no person owns a majority undivided interest, the owners of undivided interests at least equal to a majority interest may designate in writing:

(a) Which owner is eligible to vote and may cast two votes; or

(b) Which two owners are eligible to vote and may cast one vote each.

(3) If land is owned as community property, each spouse is entitled to one vote if both spouses otherwise qualify to vote, unless one spouse designates in writing that the other spouse may cast both votes.

(4) A corporation, partnership, or governmental entity shall designate:

(a) A natural person to cast its two votes; or

(b) Two natural persons to each cast one of its votes.

(5) Except as provided in RCW 85.08.025 and 86.09.377, no owner of land may cast more than two votes or have more than two votes cast for him or her in a special district election. [1991 c 349 § 2.]

85.38.110 Presumed eligible voters' list—Notice of requirements of voting authority—Copy of voter's list to county auditor. A list of presumed eligible voters shall be prepared and maintained by each special district. The list shall include the assessor's tax number for each lot or parcel in the district, the name or the names of the owners of such lots and parcels and their mailing address, the extent of the ownership interest of such persons, and if such persons are

natural persons, whether they are known to be registered voters in the state of Washington. Whenever such a list is prepared, the district shall attempt to notify each owner of the requirements necessary to establish voting authority to vote. Whenever lots or parcels in the district are sold, the district shall attempt to notify the purchasers of the requirements necessary to establish voting authority. Each special district shall provide a copy of this list, and any revised list, to the auditor of the county within which all or the largest portion of the special district is located. The special district must compile the list of eligible voters and provide it to the county auditor by the first day of November preceding the special district general election. In the event the special district does not provide the county auditor with the list of qualified voters by this date, the county auditor shall compile the list and charge the special district for the costs required for its preparation. The county auditor shall not be held responsible for any errors in the list. [1991 c 349 § 13; 1985 c 396 § 12.]

85.38.115 Elections—When not required. No election shall be held to elect a member of a special district governing body, or to fill the remainder of an unexpired term which arose from a vacancy on the governing body, if no one or only one person files for the position.

If only one person files for the position, he or she shall be considered to have been elected to the position at the election that otherwise would have taken place for such position.

If no one files for the position and the upcoming election is one at which someone would have been elected to fill the expired term, the position shall be treated as vacant at the expiration of the term.

If no one files for the position and the upcoming election is one at which someone would have been elected to fill the remaining term of office, the person appointed to fill the vacancy shall be considered to have been elected to the position at the election and shall serve for the remainder of the unexpired term. [1991 c 349 § 6.]

85.38.120 Elections—Auditor's assistance—Notice—Auditor's costs. The auditor of the county within which a special district, or the largest portion of a special district, is located shall assist such special district with its elections as provided in this section.

(1) The county auditor shall publish notice of an election to create a special district and notice of all special district elections not conducted by mail in a newspaper of general circulation in the special district at least once not more than ten nor less than three days before the election. The notices shall describe the election, give its date and times to be held, and indicate the election site or sites in the special district where ballots may be cast.

(2) If a special district has at least five hundred qualified voters, then the county auditor shall publish in a newspaper of general circulation in the special district a notice of the filing period and place for filing a declaration of candidacy to become a member of the governing body. This notice shall be published at least seven days prior to the closing of the filing period. If the special district has less than five hundred qualified voters, then the special district

shall mail or deliver this notice to each qualified voter of the special district at least seven days prior to the closing of the filing period.

(3) All costs of the county auditor incurred related to such elections shall be reimbursed by the special district. [1991 c 349 § 14; 1985 c 396 § 13.]

85.38.125 Elections—Auditor to conduct—Election by mail. (1) If a special district has less than five hundred qualified voters, then the special district must contract with the county auditor to conduct the special district elections. The county auditor has the discretion as to whether to conduct the election by mail.

(2) If a special district has at least five hundred qualified voters, the special district may contract with the county auditor to staff the voting site during the election or contract with the county auditor to conduct the election by mail. A special district with at least five hundred qualified voters may also choose to conduct its own elections. A special district that conducts its own elections must enter into an agreement with the county auditor that specifies the responsibilities of both parties.

(3) If the county auditor conducts a special district election by mail, then the provisions of chapter 29.36 RCW which govern elections by mail, except for the requirements of RCW 29.36.120, shall apply. [1991 c 349 § 15.]

85.38.130 Election officials—Duties—Voting hours—Challenged ballots—Absentee ballots. For special district elections that are not conducted by mail, the governing body of each special district shall appoint three voters of the special district, who may be members of the governing body, to act as election officials, unless the special district contracts with the county auditor to staff the election site. The election officials shall distribute a ballot or ballots to each voter of the special district who arrives at the voting place during the hours for the election on the day of the election and requests a ballot. Ballots shall also be provided to those persons arriving at the polling place during the hours for the election on the day of the election who present documents or evidence sufficient to establish their eligibility to vote. A person arriving at the polling place at such times who demands a ballot, but who fails to present documents or evidence which in the opinion of the election officials is sufficient to establish eligibility to vote, shall be given a ballot clearly marked as "challenged" and shall be allowed to vote. Each challenged ballot shall be numbered consecutively and a list of such persons and their ballot numbers shall be made.

The governing body of each special district shall designate those hours from 7 a.m. to 8 p.m. during which the election shall be held: **PROVIDED**, That at least six consecutive hours must be designated. When the election is over, the election officials shall secure the ballots and transport the ballots to the county auditor's office by noon of the day following the election. The auditor may, at his or her discretion, station a deputy auditor or auditors at the election site who shall observe the election and transport the ballots to the auditor's office. The auditor shall count the ballots and certify the count of votes for and against each measure and for each candidate appearing on the ballot. A

separate count shall be made of any challenged ballots. A challenged ballot shall be counted as a normal ballot if documents or evidence are supplied to the auditor before 4:00 p.m. on the day after the election that, in the opinion of the auditor, are sufficient to establish the person's eligibility to vote.

Additionally, voting by absentee ballot shall be allowed in every special district. A request for an absentee ballot may be made by an eligible voter by mail or in person to the county auditor who supervises the special district elections. An absentee ballot shall be provided to each voter of a special district requesting such a ballot under this section. A person requesting such a ballot may present information establishing his or her eligibility to vote in such a special district. The auditor shall provide an absentee ballot to each person requesting an absentee ballot who is either included on the list of presumed eligible voters or who submits information which, in the auditor's opinion, establishes his or her eligibility to vote. The names of these persons so determined to be eligible to vote shall be added to the list of presumed eligible voters for the appropriate special district. The request for an absentee ballot must be made no more than forty-five days before the election. To be valid, absentee ballots must be postmarked on or before the day of the election and mailed to the county auditor. [1991 c 349 § 16; 1985 c 396 § 14.]

85.38.140 Special district financing—Alternative method. The process by which budgets are adopted, special assessments are measured and imposed, rates and charges are fixed, and assessment zones are established, as provided in RCW 85.38.140 through 85.38.170, shall constitute an alternative optional method of financing special districts. A special district in existence prior to July 28, 1985, may conform with RCW 85.38.140 through 85.38.170 when its governing body adopts a resolution indicating its intention to conform with such laws. Whenever such a resolution is adopted, or a new special district is created on or after July 28, 1985, RCW 85.38.140 through 85.38.170 shall be the exclusive method by which the special district measures and imposes special assessments and adopts its budget. The governing body of a special district that was created before July 28, 1985, and which operates under RCW 85.38.140 through 85.38.170, may adopt a resolution removing the special district from operating under RCW 85.38.140 through 85.38.170, and operate under alternative procedures available to the special district. A county may charge a special district for costs the county incurs in establishing a system or systems of assessment for the special district pursuant to RCW 85.38.140 through 85.38.170. [1993 c 464 § 3; 1985 c 396 § 15.]

85.38.145 Rates and charges. Regardless of whether any special assessments have been or may be imposed on a particular parcel of real property pursuant to this chapter, in order to implement the authority granted under RCW 85.38.180(3), a special district may fix rates and charges payable by owners or occupiers of real estate within the special district. When fixing rates and charges, the district may consider the degree to which activities on a parcel of real property, including on-site septic systems, contribute to

the problems that the special district is authorized to address under RCW 85.38.180(3). [1993 c 464 § 4.]

85.38.150 Special assessments—Valuation—Assessment zones—Criteria for assessments. (1) Special district special assessments shall be imposed only on real property within the district that uses or will use the special district's facilities or receives or will receive special benefits from the special district's operations and facilities. Both privately owned and publicly owned real property, including real property owned by the state, is subject to these special assessments. Mobile homes located on real property within a special district shall be considered an improvement to the real property for purposes of imposing special assessments.

(2) Special assessments imposed upon real property, other than improvements, shall be a function of the dollar value of benefit or use per acre and the assessment zone in which the real property is located. Special assessments imposed upon an improvement shall be a function of the dollar value of benefit or use assigned to the type or class of improvements and the assessment zone in which the improvement is located.

(3) Assessment zones shall be established in which each zone reflects a different relative ratio of benefit or use that the real property within such a zone receives, or will receive, from the special district's operations and facilities. That real property receiving the greatest benefits, or which uses the special district's facilities to the greatest extent, shall be placed into class No. 1 and assigned a value of one hundred percent; that real property receiving the next greatest benefits, or which uses the special district's facilities to the next greatest extent, shall be placed into class No. 2 and assigned a lower percentage value; and so on, extending to the class of least benefits or use. That real property receiving no benefits or use shall be designated "nonbenefit." If all real property in the special district is found to have the same relative ratio of benefit or use, a single assessment zone may be established.

(4) Any one or more of the following criteria shall be used in measuring the manifest degrees or ratios of benefit or use: (a) Proximity to the special district's facilities; (b) height above or below dikes and levees; (c) easier accessibility; (d) facility of drainage; (e) minimization of flood or inundation damage; (f) actual flood protection; (g) use of the special district's facilities; and (h) any other criteria established by the county under RCW 85.38.160 that measure manifest degrees of benefit or use from the special district's facilities and operations.

(5) Special assessments may be imposed to pay for the construction, repair, and maintenance of special district facilities and for special district operations. Administrative and operational costs of the special district shall be proportionally included in these special assessments. [1985 c 396 § 16.]

85.38.160 Systems of assessment—Hearing—Notice—Adoption of ordinance—Appeals—Review—Emergency assessment. (1) The county within which each special district is located shall establish a system or systems of assessment for the special district as provided in this section. A differing system of assessment shall be estab-

lished for different classes of facilities that a special district provides or will provide, including a separate system of assessment for diking and drainage facilities if both classes of facilities are provided. Whenever a special district located in more than one county, the county within which the largest portion of the special district is located shall establish the system or systems of assessment for the entire special district. A system of assessment shall include assessment zones, the acreage included in each assessment zone, a dollar value of benefit or use per acre, and various classes or types of improvements together with a dollar value of benefit or use for an improvement included in each of the classes or types of improvements. The county shall establish which improvements shall be subject to special assessment and shall establish one or more types or classes of such improvements.

(2) The engineer of the county shall prepare a preliminary system or systems of assessment for each special district. Each system of assessment that is prepared for a special district shall be designed to generate a total of one thousand dollars in revenue for the special district.

The preliminary system or systems of assessment shall be filed with the county legislative authority. A public hearing on the preliminary system or systems of assessment shall be held by the county legislative authority. Notice of the public hearing shall be published in a newspaper, general circulation in the special district, for two consecutive weeks with the final notice being published not less than fourteen, nor more than twenty-one days, before the public hearing. Notice shall also be mailed to each owner of real property, as shown on the assessor's tax rolls, of each lot or parcel subject to such assessments. The mailed notice shall indicate the amount of assessment on the lot or parcel that, together with all other assessments in the system of assessment, would raise one thousand dollars. The mailed notice shall indicate that this assessment amount is not being imposed, but is a hypothetical assessment that, if combined with all other hypothetical assessments in the system of assessment, would generate one thousand dollars, and that this hypothetical assessment is proposed to be used to establish a system or systems of assessment for the special district. Where a special district currently is imposing special assessments and a property owner's property is subject to these special assessments, the mailed notice to the property owner also shall use the hypothetical special assessment in conjunction with the total special assessment imposed by the special district in that year to provide a comparison special assessment value to the property owner. This notice shall indicate that the comparison special assessment value is not being imposed, and should be considered for comparative purposes only. Where a special district is not currently imposing special assessments, the mailed notice may include, if deemed appropriate by the county engineer and if such figures are available, an estimated special assessment value for the property owner's property using this hypothetical special assessment in conjunction with special district-wide level of special assessments that possibly would be imposed in the following year. Where a county is imposing rates and charges for storm water or surface water control facilities pursuant to chapters 36.89 or 36.94 RCW, the county shall credit such rates and charges with assessments imposed under this

section by a special district to fund drainage facilities and the maintenance of drainage facilities.

(3) The county legislative authority shall hold a public hearing on the preliminary system or systems of assessment on the day specified in the notices. Persons objecting to the preliminary system or systems of assessment may present their objections at this public hearing, which may be continued if necessary. The county legislative authority shall adopt an ordinance finalizing the system or systems of assessment after making any changes that in its discretion are necessary. The county legislative authority shall have broad discretion in establishing systems of assessment. The decision of the county legislative authority shall be final, except for appeals. Any person objecting to the system or systems of assessment must appeal such decision to the superior court of the county within which all, or the largest portion, of the special district is located within twenty days of the adoption of the ordinance.

(4) The system or systems of assessment of each special district shall be reviewed by the county engineer and finalized by the county legislative authority at least once every four years. A system or systems of assessment shall be finalized on or before the first of September in the year that it is finalized. The legislative authority of a county that is responsible for establishing a system or systems of assessment for more than one special district may, at its option, stagger the initial finalization of such systems of assessment for different special districts over a period of up to four years. Assessments shall be collected in special districts pursuant to the district's previous system of assessment until the system or systems of assessment under this chapter is finalized under this section.

(5) New improvements shall be noted by the special district as they are made and shall be subject to special assessments in the year after the improvement is made.

(6) The county legislative authority, upon request by a special district, may authorize the special district to impose and collect emergency assessments pursuant to the special district's system or systems of assessment whenever the emergent protection of life or property is necessary. [1985 c 396 § 17.]

85.38.170 Budgets—Special assessments—Notice—Delinquent special assessments—Collection fee. Budgets for each special district shall be adopted, and special assessments imposed, annually for the succeeding calendar year. On or before December 1st of each year, the governing body of the special district shall adopt a resolution approving a budget for the succeeding year and special assessments sufficient to finance the budget. A copy of the resolution and the budget shall be forwarded immediately to the county legislative authority of the county or counties within which the special district is located and to the treasurer of the county or counties in which the special district is located. Special assessments necessary to generate funds for this budget shall be imposed pursuant to the system or systems of assessment established by the county. Special assessments shall be collected by the county treasurer or treasurers within which the special district is located. Notice of the special assessments due may be included on the notice of property taxes due, may be included on a

separate notice that is mailed with the notice of property taxes due, or may be sent separately from the notice of property taxes due. Special assessments shall be due at the same time property taxes are due and shall constitute liens on the land or improvements upon which they are imposed. Delinquent special assessments shall be foreclosed in the same manner, and subject to the same time schedules, interest, and penalties as delinquent property taxes. County treasurers may impose a fee for collecting special assessments not to exceed one percent of the dollar value of special assessments collected. [1985 c 396 § 18.]

85.38.180 Special districts—Powers. A special district may:

(1) Engage in flood control activities, and investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities necessary to prevent inundation or flooding from rivers, streams, tidal waters or other waters. Such facilities include dikes, levees, dams, banks, revetments, channels, canals, and other works, appliances, machinery, and equipment.

(2) Engage in drainage control, storm water control, and surface water control activities, and investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities necessary to control and treat storm water, surface water, and flood water. Such facilities include drains, ditches, canals, nonsanitary sewers, pumps, and other works, appliances, machinery, and equipment.

(3) Engage in lake or river restoration, aquatic plant control, and water quality enhancement activities.

(4) Take actions necessary to protect life and property from inundation or flow of flood waters, storm waters, or surface waters.

(5) Acquire, purchase, condemn by power of eminent domain pursuant to chapters 8.08 and 8.25 RCW, or lease, in its own name, necessary property, property rights, facilities, and equipment.

(6) Sell or exchange surplus property, property rights, facilities, and equipment.

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

(8) Hire staff, employees, or services, or use voluntary labor.

(9) Sue and be sued.

(10) Cooperate with or join the United States, the state of Washington, or any other public or private entity or person for district purposes.

(11) Enter into contracts.

(12) Exercise any of the usual powers of a corporation for public purposes. [1991 c 349 § 17; 1985 c 396 § 19.]

85.38.190 Construction of improvements—When public bidding not required—Use of district employees or volunteers. Any proposed improvement or part thereof, not exceeding five thousand dollars in cost, may be constructed by district employees: PROVIDED, That this shall not restrict a special district from using volunteer labor and equipment on improvements, and providing reimbursement for actual expenses. [1987 c 298 § 4; 1986 c 278 § 50.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.200 Annexation of contiguous territory—Procedures. (1) Territory that is contiguously located to a special district may be annexed by the special district as provided in this section under the petition and election, resolution and election, or direct petition method of annexation.

(2) An annexation under the election method may be initiated by the filing of a petition requesting the action that is signed by at least ten owners of property in the area proposed to be annexed or the adoption of a resolution requesting such action by the governing body of the special district. The petitions shall be filed with the governing body of the special district that is requested to annex the territory. An election to authorize an annexation initiated under the petition and election method may be held only if the governing body approves the annexation. An annexation under either election method shall be authorized if the voters of the area proposed to be annexed approve a ballot proposition favoring the annexation by a simple majority vote. The annexation shall be effective when results of an election so favoring the annexation are certified by the county auditor or auditors. The election, notice of the election, and eligibility to vote at the election shall be as provided for the creation of a special district.

(3) An annexation under the direct petition method of annexation may be accomplished if the owners of a majority of the acreage proposed to be annexed sign a petition requesting the annexation, and the governing body of the special district approves the annexation. The petition shall be filed with the governing body of the special district. The annexation shall be effective when the governing body approves the annexation.

(4) Whenever a special district annexes territory under this section, the exclusive method by which the special district measures and imposes special assessments upon real property within the entire enlarged area shall be as set forth in RCW 85.38.150 through 85.38.170. [1986 c 278 § 8.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.210 Consolidation of contiguous districts—Procedures. Two or more special districts that are contiguously located with each other, or which occupy all or part of the same territory, may consolidate as provided in this section. The consolidation shall result in the creation of a flood control district.

A consolidation may be initiated by: (1) The filing of a petition requesting the action that is signed by eligible voters of each special district who constitute at least ten percent of the eligible voters of the special district, or who own at least a majority of the acreage in the special district; or (2) the adoption of a resolution requesting such action by the governing body of each special district. The petitions shall be filed with, and the resolutions shall be submitted to, the county legislative authority of the county within which all or the largest portion of the special districts is located. The auditor of the county, or auditors of the counties, within which these districts are located shall authenticate the signatures on the petitions and certify the results. An election to authorize the consolidation shall be held not more

than one hundred eighty days after the date of the filing of the resolutions, or the determination that sufficient valid signatures are included on the petition from the voters of each of the special districts.

The consolidation shall be authorized if voters in each of the special districts approve a ballot proposition favoring the consolidation by a simple majority vote. Members of the governing body of the consolidated special district shall be selected as provided in RCW 85.38.070 for a newly created special district and the consolidation shall be effective when these initial members of the governing body are so appointed.

All moneys, rights, property, assets and liabilities of the consolidating special districts shall vest in and become the obligation of the new consolidated special district, except that any indebtedness of a consolidating special district shall remain an indebtedness of the original consolidating special district and lands within the original consolidating special district shall impose special assessments on lands in the original consolidating special district to redeem this indebtedness. However, the new consolidated special district may issue funding or refunding bonds or notes and fund or refund such indebtedness. The new consolidated special district may continue imposing special assessments pursuant to the various systems of assessment used by the original consolidating special districts, or may establish a new system or systems of assessment in all or part of the new consolidated special district to finance its operations. [1986 c 278 § 9.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.213 Withdrawal of area within city or town. A special district may withdraw area from its boundaries that is located within the boundaries of a city or town, or area that includes area both within and adjacent to the boundaries of any city or town, under this section.

(1) The withdrawal of area is authorized upon the following conditions being met: (a) Adoption of a resolution by the special district requesting withdrawal of the area from the district; (b) adoption of a resolution by the city or town council approving the withdrawal of the special district from the area; (c) assumption by the city or town of full responsibility for the maintenance, improvements, and collection of payment for the operation of the system previously operated by the special district in the area; (d) transfer by the special district of all rights-of-way or easements in the area to the city or town by quit claim or deed; and (e) adoption of an interlocal agreement between the special district and the city or town that reimburses the special district for lost assessment revenue from the withdrawn area, that transfers any facilities or improvements owned by the special district to the city or town as agreed between the parties, and that requires the city or town to maintain existing water run-off and water quality levels in the area.

(2) Property in the territory withdrawn from the boundaries of a special district under this section shall remain liable for any special assessments of the special district from which it was withdrawn, if the special assessments are associated with bonds or notes used to finance facilities serving the property, to the same extent as if the withdrawal of property had not occurred. [1993 c 464 § 2.]

85.38.215 Transfer of territory from one special district to another. Territory that is located in one special district may be transferred from that special district to another special district as provided in this section, if a portion of this territory is coterminous with a portion of the boundaries of the special district to which it is transferred. Such a transfer shall be accomplished using the procedures in RCW 85.38.200 for annexing territory, except that the governing body of both special districts must approve the transfer and make findings that the transfer is in the public interest and that the special district to which the territory is transferred is better able to provide the activities and facilities serving the territory than the special district from which the territory is transferred.

Property in the territory so transferred shall remain liable for any special assessments of the special district from which it was transferred, if the special assessments are associated with bonds or notes used to finance facilities serving the property, to the same extent as if the transfer had not occurred.

A transfer of territory also may include the transfer of property, facilities, and improvements owned by one special district to the other special district, with or without consideration being paid. [1987 c 298 § 1.]

85.38.217 Drainage and drainage improvement districts—Removal of area by first class city—Notice. Any portion of a drainage district or drainage improvement district located within the boundaries of a first class city operating a storm drain utility pursuant to RCW 35.67.030 may be removed from the drainage district or drainage improvement district by ordinance of the city. The removal of an area shall not result in the impairment of any contract nor remove the liability or obligation to finance district improvements that serve the area so removed as of the effective date of the ordinance. Residents of the district to be removed shall be given substantial notice of the impending action and the opportunity to respond to the action. [1991 c 28 § 3.]

85.38.220 Suspension of operations—Procedure—Reactivation. Any special district may have its operations suspended as provided in this section. The process of suspending a special district's operations may be initiated by: (1) The adoption of a resolution proposing such action by the governing body of the special district; (2) the filing of a petition proposing such action with the county legislative authority of the county in which all or the largest portion of the special district is located, which petition is signed by voters of the special district who own at least ten percent of the acreage in the special district or is signed by ten or more voters of the special district; or (3) the adoption of a resolution proposing such action by the county legislative authority of the county in which all or the largest portion of the special district is located.

A public hearing on the proposed action shall be held by the county legislative authority at which it shall inquire into whether such action is in the public interest. Notice of the public hearing shall be published in a newspaper of general circulation in the special district, posted in at least four locations in the special district to attract the attention of the

public, and mailed to the members of the governing body of the special district, if there are any. After the public hearing, the county legislative authority may adopt a resolution suspending the operations of the special district if it finds such suspension to be in the public interest. When a special district is located in more than one county, the legislative authority of each of such counties must so act before the operations of the special district are suspended.

After holding a public hearing on the proposed reactivation of a special district that has had its operations suspended, the legislative authority or authorities of the county or counties in which the special district is located may reactivate the special district by adopting a resolution finding such action to be in the public interest. Notice of the public hearing shall be posted and published as provided for the public hearing on a proposed suspension of a special district's operations. The governing body of a reactivated special district shall be appointed as in a newly created special district.

No special district that owns drainage or flood control improvements may be dissolved unless the legislative authority of a county accepts responsibility for operation and maintenance of the improvements. [1986 c 278 § 10.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.225 Alternative dissolution procedure—Drainage and drainage improvement districts—Conditions. As an alternative to this chapter a drainage district or drainage improvement district located within the boundaries of a county storm drainage and surface water management utility, and which is not currently imposing assessments, may be dissolved by ordinance of the county legislative authority. If the alternative dissolution procedure in this section is used the following shall apply:

(1) The county storm drainage and surface water management utility shall assume responsibility for payment or settlement of outstanding debts of the dissolved drainage district or drainage improvement district.

(2) All assets, including money, funds, improvements, or property, real or personal, shall become assets of the county in which the dissolved drainage district or drainage improvement district was located.

(3) Notwithstanding RCW 85.38.220, the county storm drainage and surface water management utility may determine how to best manage, operate, maintain, improve, exchange, sell, or otherwise dispose of all property, real and personal, of the dissolved drainage district or drainage improvement district. [1991 c 28 § 2.]

85.38.230 Special assessment bonds authorized. A special district may issue special assessment bonds or notes to finance costs related to providing, improving, expanding, or enlarging improvements and facilities if the county legislative authority within which all or the major part of the special district is located authorizes the issuance of such bonds or notes. The decision of a county legislative authority authorizing or failing to authorize a proposed issue of special assessment bonds or notes constitutes a discretionary function, and shall not give rise to a cause of action against the county, county legislative authority, or any member of the county legislative authority. [1986 c 278 § 18.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.240 Special assessment bonds—Issuance—Terms. (1) Special assessment bonds and notes issued by special districts shall be issued and sold in accordance with chapter 39.46 RCW, except as otherwise provided in this chapter. The maximum term of any special assessment bond issued by a special district shall be twenty years. The maximum term of any special assessment note issued by a special district shall be five years.

(2) The governing body of a special district issuing special assessment bonds or notes shall create a special fund or funds, or use an existing special fund or funds, from which, along with any special assessment bond guaranty fund the special district has created, the principal of and interest on the bonds or notes exclusively are payable.

(3) The governing body of a special district may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on special assessment bonds or notes, and premiums on special assessment bonds or notes, if any. Such covenants may include, but are not limited to, depositing certain special assessments into a special fund or funds, and establishing, maintaining, and collecting special assessments which are to be placed into the special fund or funds. The special assessments covenanted to be placed into such a special fund or funds after June 11, 1986, only may include all or part of the new system of special assessments imposed for such purposes, pursuant to RCW 85.38.150 and 85.38.160. Special assessment bonds or notes issued after July 26, 1987, may not be payable from special assessments imposed under authorities other than those provided in chapter 85.38 RCW.

(4) A special assessment bond or note issued by a special district shall not constitute an indebtedness of the state, either general or special, nor of the county, either general or special, within which all or any part of the special district is located. A special assessment bond or note shall not constitute a general indebtedness of the special district issuing the bond or note, but is a special obligation of the special district and the interest on and principal of the bond or note shall be payable only from special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created.

The owner of a special assessment bond or note, or the owner of an interest coupon, shall not have any claim for the payment thereof against the special district arising from the special assessment bond or note, or interest coupon, except for payment from the special fund or funds, the special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created. The owner of a special assessment bond or note, or the owner of an interest coupon, issued by a special district shall not have any claim against the state, or any county within which all or part of the special district is located, arising from the special assessment bond, note, or interest coupon. The special district issuing the special assessment bond or note shall not be liable to the owner of any special assessment bond or note, or owner of any interest coupon, for any loss occurring in the lawful operation of its special assessment bond guaranty fund.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each special assessment bond or note that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds or notes. [1987 c 298 § 5; 1986 c 278 § 19.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.250 Special assessment bonds—Guaranty fund. The governing body of a special district issuing special assessment bonds or notes may create and pay money into a special assessment bond guaranty fund to guaranty special assessment bonds and notes issued by the special district. A portion of the special assessments collected by a special district may be placed into its special assessment bond guaranty fund. [1986 c 278 § 20.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.260 Special assessment bonds—Refunding. A special district may issue funding or refunding special assessment bonds or notes to refund outstanding bonds or notes. Such funding or refunding bonds or notes shall be subject to the provisions of law governing other special assessment bonds or notes. [1986 c 278 § 21.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.270 Special assessment bonds issued prior to July 1, 1986. Special assessment bonds or notes issued by a special district prior to July 1, 1986, shall continue to be retired and be subject to the laws under which they were issued. [1986 c 278 § 22.]

Severability—1986 c 278: See note following RCW 36.01.010.

85.38.900 Severability—1985 c 396. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 396 § 88.]

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