

An Abstract of
the Ohio Drainage Laws
(Enacted August 23, 1957)

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An Abstract of the Ohio Drainage Laws from the
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In 1957 a major revision of the Ohio Drainage Laws was enacted. This act revised and replaced the earlier drainage laws.

Adequate drainage may require that a large area, including many farms, be a part of one system. Some systems for effective operation may encompass more than one county, district or state. Many farms may be benefited and the costs large.

The development of such systems is of public interest and of similar nature to the development of our highway systems. Private property will have to be taken for public use, with just compensation. Assessments, bonds and tax levies may be required to obtain the necessary capital.

The Ohio Drainage Law provides the authority and regulates the method of operation for public drainage systems. The law provides for all aspects of: removal of water, drainage, irrigation, storage of water, prevention of overflow and conservation of water.

This abstract attempts to retain the intent and meaning of the law. The full text of the law should be referred to for a clear understanding of its provisions and use. Code numbers have been included for easy access of each section abstracted.

6131.02 Authority of County Commissioners

Upon petition, the board of county commissioners may approve construction to: remove water, control drainage, irrigate, store water, prevent overflow or conserve water, provided cost is less than the benefits.

6131.03 Cooperative Systems

A board may cooperate with other county commissioners, conservancy districts, state and U. S. authorities for a system of water conservation and flood control, prorating construction and maintenance costs.

6131.04 Petition

Any owner (individual or corporate) may file, stating the necessity and nature of the work, the owners benefited or damaged.

6131.06 Bond

Shall accompany petition. Minimum, \$200 plus 25 cents for each parcel in excess of 200 benefited. Bond surety: two freeholders, of the county, surety company or cash. No bond is required of public corporations.

6131.07 Notice and Hearing

A time may be set between 30 and 40 days from petition for viewing the proposed improvement. The first hearing may be held between 14 and 60 days after the view. Owners affected shall be notified at least 20 days before the view.

6131.09 Preliminary Report

The engineer is to prepare an estimate of cost for the proposed improvement when notified of the petition. He is to comment on the feasibility of the improvement and state an opinion as to whether benefits will exceed cost.

6131.11 Finding against the Improvement

If the board of commissioners finds the improvement unnecessary the petition is dismissed. Any affected owner may appeal the dismissal to the Court of Common Pleas. If no appeal is filed in 21 days, the petitioner shall pay all costs incurred and the bond released.

6131.12 Finding for the Improvement

If the board finds for the improvement, the petition will be granted. The engineer is to prepare reports and schedules of the improvement. On granting the petition the board is to order the transfer from general revenue funds, 8 1/2 percent of the engineers estimate of cost.

The route of the improvement as far as practicable, is to avoid running diagonally across farms. Where practical, it should follow lines and highways but approval must be obtained from the agency owning the highway.

6131.14 Duty of the Engineer

The engineer shall make surveys, plans, maps and profiles of the improvements. He is to make estimates of construction, engineering, notification, publication and incidental costs. He is to set stakes, note intersection of boundaries and determine the extent of benefit to land affected. A schedule of work showing fall, excavation, bench marks, levels and other features of the improvement shall be made by the engineer.

Plans for the improvement shall be transmitted to the Department of Natural Resources and Department of Highways on completion for review and approval. These agencies have 30 days to review the plans and note approval, recommendations, change or disapproval.

The engineer is to prepare plans for the construction of the improvement, including an easement for the maintenance and construction. Specification ~~may~~ provide for sodding or seeding to a width of 10 feet at right angles to the top of ditch banks.

In estimating costs needed, farm gates may be included. These gates may be kept locked at the owners request but are part of the improvement. He and the prosecuting attorney will prepare contract forms.

6131.15 Assessment According to Benefit

The engineer will determine the percent of benefit for public corporations and prepare a schedule of assessments. He shall prepare a second schedule for each private owner.

6131.16 Filing Schedules

After the engineer files the reports and schedules, a final hearing will be held within 30 to 60 days. All owners whose names appear will be notified of the hearing. If bonds are to be issued, owners may pay their assessments in cash but must give notice of this intention within 10 days.

6131.17 Claims

Any owner may accept the engineers assessment and compensation and will be

construed to have accepted unless he files a claim at the final hearing. All exceptions shall be filed with the clerk of county commissioners on or before the final hearing.

6131.18 Council

In all claims where the rights of the county are affected, the prosecuting attorney will represent the county. If the state is affected the Attorney General will represent the state.

6131.19 Hearing on Compensation

At the final hearing the board will hear any competent evidence offered by interested owners. An appeal may be taken by any owner, if in his opinion, the compensation is less than actual drainage or fair value.

6131.20 Final Hearing

At the final hearing the commissioners shall hear any proposed change in the route from that of the engineer. If the board finds such changes better serve the purpose, it may effect the change. Before making the change, all affected owners must be notified.

6131.21 Board May Dismiss Petition at Final Hearing

At the final hearing the board may review and reconsider its former order and shall affirm and proceed ordering and letting contracts or dismiss the petition.

The board shall consider:

- (a) Cost of location and construction
- (b) Compensation for land or other property to be taken
- (c) Damages of land along the route and in the vicinity
- (d) Damages below the improvement caused by the improvement
- (e) Sufficiency of outlet
- (f) Benefit to the public welfare
- (g) Benefits to land, public corporation and state of Ohio
- (h) Any proper matter which will assist it in finding for or against the improvement

If the petition is dismissed, the petitioners shall pay all costs except the cost of the engineer in making his survey reports and schedules. The petitioner or any owner may appeal such order of dismissal.

6131.22 Commissioners Determine Assessments

At the final hearing, any evidence for or against the assessment and benefit will be heard. The assessment shall be made in proportion to the benefits to the agency or owner.

The board will confirm the assessment and order the engineer to let contracts. The board will set the time for payment of assessment and decide whether to issue bonds.

Any owner opposed to the petition or proceedings, or claims his assessment is excessive, may appeal.

6131.23 Payment of Assessment

At the final hearing the board shall set the terms for payment of assessments as taxes, and if bonds are issued, the rate of interest. If the assessment is less than \$500, not more than two semi-annual payments are to be paid. If more than \$500, the board determines the number of installments. Assessment of \$5 or less must be paid in full. Assessments may be paid in cash within 10 days or will be added to the tax duplicate.

6131.24 Engineer to Let Contract

The engineer shall give notice of the time and place where bids will be accepted. Bids will be received by the clerk of the commissioners.

If an appeal has been taken to the Court of Common Pleas, bids may be tabulated but the deposit shall be returned and no further action taken. If no appeal has been taken, the engineer shall proceed.

6131.28 Appeals

The appeal will be advanced or tried as soon as the court can hear it. Any owner making an appeal may be joined with another interested owner by oral order

or in writing and be entered on the record as jointly interested. In such case, the costs will be bound jointly by the owners if the order appealed is sustained.

6131.30 Procedure on Appeal

All owners in any way affected by the appeal shall come into court. The court may view the premises and make judgment as warranted by the evidence presented. An owner aggrieved by the judgment may file an exception. The burden of proof rests on the owner in the affirmative. The court, as a court of equity, shall hear all issues raised and make final judgment for or against the improvement, assessment, compensation and damages.

6131.31 Finding an Appeal

A. If the appeal is from an order dismissing the petition and the court finds the improvement unnecessary, cost of the board and court shall be paid by the petitioner and appellant.

B. If an appeal is made before finding for the petition, the court shall order the engineer to survey and file reports and schedules. All owners interested will be notified and the court will hear evidence relating to assessment, compensation and damages.

C. If the appeal is on question of construction, route or termini or for or against branches, laterals, spurs or assessments or other questions, the court shall adjudge the cost as it deems equitable.

6131.32 Jury Trial

On appeal of an order allowing or refusing compensation, the interested owners shall have the right to trial by jury.

6131.37 Bids

Bids shall be sealed and in writing and accompanied by certified check of 3 percent of the engineer's final estimate or \$500, whichever is less.

All deposits of unsuccessful bidders will be returned at once. If a successful bidder refuses or neglects to sign a contract for 10 days or furnish bond, the board may declare his deposit forfeited.

6131.47 Removal of Obstruction

During the work the engineer shall give 20 day notice to owners for removal of culverts, bridges, fences or floodgates when necessary.

6131.50 General Drainage Improvement Fund

The county commissioners of each county shall provide and establish the general drainage improvement fund which shall be used as a sinking fund for all bonds issued and shall consist of:

- A. any taxes collected for ditches and drainage purposes
- B. bonds
- C. special assessment
- D. other funds

6131.51 Payments from the Drainage Improvement Fund

All costs and expenses of improvements shall be paid from the general drainage improvement fund.

6131.52 Tax Levy

The board shall, if necessary, levy on the grand duplicate of the county a tax not to exceed five-tenths of one mill which shall be credited to the general drainage fund.

6131.57 Records

A record shall be kept of the proceedings, estimates, assessments, contracts, and payments for compensation or damages.

6131.60 Interested Commissioner

A commissioner, personally interested, who petitioned, owns land that will be taken, benefited or damaged, shall not act. The judge of Common Pleas Court shall appoint as many disinterested freeholders as needed for replacement.

6131.62 County Land

When the county commissioners petition for an improvement affecting county owned land, the board may file petition with the Court of Common Pleas. The court will perform the duties normally performed by the commissioners.

6131.63 Agreement for Construction of Improvement

Owners of nonagricultural land may jointly agree to the construction of an improvement, pay the costs and enter into a written agreement. Such an agreement must be filed with the commission for examination and review. Upon approval the owners may construct the improvements.

6133.02 Improvement in More Than One County

If the improvement benefits or damages land in two or more counties, the proceeding shall be conducted by a joint board of commissioners. The procedure shall be the same as if the improvement was in one county with the clerk of the board to which the petition was presented acting as clerk. The engineer of any of the counties may be appointed to do the work assisted by engineers of other counties. If no agreement can be reached for selection of the engineer, the engineer of the county in which the petition was filed shall act.

6133.12 State's Share

If the state is benefited by the improvement, it shall pay to the county treasurer in which the petition was filed the assessment levied.

6135.20 Outside of the State

The board may perform an improvement outside of the state if the privilege is granted by the adjoining state.

6137.02 Maintenance Fund

The board of each county shall maintain a fund for the repair and maintenance of each improvement. If two or more counties are affected, the joint board shall maintain this fund. This fund shall be derived by annual assessment of the benefited owners.

6137.04 Combining Improvement

The board, on recommendation of the engineer, can combine improvements into a drainage district.

The topography and soil type shall be considered for uniformity of maintenance. The county having the larger maintenance responsibilities shall maintain the fund and its engineer is responsible for the maintenance.

6137.05 Repairs

The maintenance fund is subject to the use of the board. Repair shall be made when the board, engineer or owners, by written complaint, believe that repairs are needed.

6137.08 Reduction in Maintenance Assessment

A. Owners may apply for reduction due to work done on part of the improvement.

The engineer shall determine the reduction in assessment subject to approval by the board.

B. Reduction up to 50 percent of annual maintenance assessment may be granted for owners following conservation practices that reduce water runoff and erosion. To require this reduction, the owner must file a certificate with the engineer from the soil conservation district that he is following these practices.