

Chapter 87.80 RCW
JOINT CONTROL OF IRRIGATION DISTRICTS

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RCW 87.80.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Area of jurisdiction" means all lands within the exterior boundary of the composite area served by the irrigation entities that comprise the board of joint control as the boundary is represented on the map filed under RCW 87.80.030.

(2) "Irrigation entity" means an irrigation district or an operating entity for a division within a federal reclamation project. For the purposes of this chapter, a water company, a water users' association, a municipality, a water right owner and user of irrigation water, or any other entity that provides irrigation water as a primary purpose, is an irrigation entity when creating or joining a board of joint control with an irrigation district or operating entity for a division within a federal reclamation project.

(3) "Joint use facilities" means those works, including reservoirs, canals, ditches, natural streams in which the irrigation entity has rights of conveyance under RCW 90.03.030, hydroelectric facilities, pumping stations, drainage works, reserved works as may be transferred by contracts with the United States, and system interties that are determined by the board of joint control to provide common benefit to its members.

(4) "Ownership interest" means the irrigation entity holds water rights in its name for the benefit of itself, its water users or, in federal reclamation projects, the irrigation entity has a contractual responsibility for delivery of water to its individual water users.

(5) "Source of water" means a hydrological distinct river and tributary system or aquifer system from which board of joint control member entities appropriate water. [2003 c 306 s 1; 1996 c 320 s 2.]

RCW 87.80.010 Board of joint control authorized. A board of joint control may be created as provided in this chapter to administer: (1) The construction, operation, maintenance, betterments, and regulations of the joint use facilities, including reservoirs, canals, hydroelectric facilities within the works of the irrigation water supply system, pumping stations, drainage works, reserved works, and system interconnections, of two or more irrigation entities which are the owners of, have an ownership interest in, or are trustees for owners of water rights having the same source or which use common works for the diversion and either transportation, or drainage, or both, of all or any part of their respective irrigation water supplies; and (2) activities and programs that promote more effective and efficient water management for the benefit of member entities of a board of joint control. [1996 c 320 s 1; 1949 c 56 s 1; Rem. Supp. 1949 s 7505-20.]

RCW 87.80.020 Petition to create board required—Signatures—Filing. (1) For the purpose of creating a board of joint control a petition signed by two or more entities that are owners of or hold an ownership interest in water rights having the same source of water or use common works for the diversion, transportation, or drainage of all or any part of their respective irrigation water supplies, must be filed with the board of county commissioners of the county in which the greater part of the land irrigated from the source of water supply is situated.

(2) The petition shall also be filed with the board of commissioners of each county containing lands irrigated from the source of water supply of the entities signing the petition. The board of county commissioners making the review under RCW 87.80.090 shall consider any comments of other boards of county commissioners provided within the public hearing and comment period on the petition. [1996 c 320 s 3; 1949 c 56 s 2; Rem. Supp. 1949 s 7505-21.]

RCW 87.80.030 Form and contents of petition—Map. The petition for the creation of a board of joint control shall be addressed to the board of county commissioners, shall describe generally the relationship, if any, of the irrigation entities to an established federal reclamation project, the primary waterworks of the entities including reservoirs, main canals, hydroelectric facilities, pumping stations, and drainage facilities, giving them their local names, if any they have, and shall show generally the physical relationship of the lands being watered from the water facilities. However, lands included in any irrigation entity involved need not be described individually but shall be included by stating the name of the irrigation entity and all the irrigable lands in the irrigation entity

named shall by that method be deemed to be involved unless otherwise specifically stated in the petition. Further, the petition must propose the formula for board of joint control apportionment of costs among its members, and may propose the composition of the board of joint control as to membership, chair, and voting structure. When a board of joint control includes irrigation entities other than an irrigation district or an operating entity for a division within a federal reclamation project as provided in RCW 87.80.005, the voting structure must be such that the votes apportioned to those entities are less than fifty percent of the total votes.

The petition shall also state generally the reasons for the creation of a board of joint control and any other matter the petitioners deem material, and shall allege that it is in the public interest and to the benefit of all the owners of the lands receiving water within the area of jurisdiction, that the board of joint control be created and request that the board of county commissioners consider the petition and take the necessary steps provided by law for the creation of a board of joint control. The petition shall be accompanied by a map showing the area of jurisdiction and the general location of the water supply and distribution facilities. [2003 c 306 s 2; 1996 c 320 s 4; 1949 c 56 s 3; Rem. Supp. 1949 s 7505-22.]

RCW 87.80.040 Petition filed if regular in form—Hearing set.

Upon the filing of a petition for the creation of a board of joint control the board of county commissioners at a regular meeting or at a special meeting shall examine the petition and, if found regular in form, shall accept the same for filing, and shall fix a time and place for hearing said petition. [1949 c 56 s 4; Rem. Supp. 1949 s 7505-23.]

RCW 87.80.050 Notice of hearing. Notice of the hearing on the petition shall be given by the clerk of the board of county commissioners by publishing the same, at the cost of the board of control, if created, otherwise at the cost of the petitioners, in the official newspaper of each county containing lands irrigated from the source of supply of the entities signing the petition. The notice shall be published in at least three weekly issues thereof. However, the time of the hearing shall not be less than thirty days from the date of the first publication of the notice. A copy of the notice shall be posted at the regular meeting place of the board of directors of each irrigation entity concerned in the granting or denial of the petition and a copy of the notice shall be mailed to the department of ecology at Olympia at least thirty days prior to the day of the hearing. [1996 c 320 s 5; 1988 c 127 s 66; 1949 c 56 s 5; Rem. Supp. 1949 s 7505-24.]

RCW 87.80.060 Form and contents of notice. The notice of the hearing on the petition shall state that a petition requesting the creation of a board of joint control to administer the facilities and activities, naming them if named in the petition, has been filed with the board of county commissioners of the county, naming the county; that the board of joint control, if it is created, will have authority to provide for apportionment of costs to carry out the objects of its

creation among the member irrigation entities (naming them); shall state the day, hour, and place of the hearing on the petition; shall state that any person interested in the creation of the board of joint control may appear on or before the day of hearing on the petition, and show cause in writing, if any, why the same should not be granted, and the notice shall be over the name of the clerk of the board of county commissioners. [1996 c 320 s 6; 1949 c 56 s 6; Rem. Supp. 1949 s 7505-25.]

RCW 87.80.070 Conduct and scope of hearing—Independent investigation authorized. The board of county commissioners, at the time and place mentioned in the notice of hearing or at the time or times to which the hearing on said petition may be adjourned, shall proceed to hear the petition and all evidence submitted against and in support of the same. The board of county commissioners shall have full authority to adjourn the hearing from time to time not exceeding four weeks in all and to grant or reject the petition, and to determine the matter; any irregularities or omissions in the allegations of the petition shall not be held or construed to deprive the board of county commissioners of jurisdiction and authority to consider and determine the matter of any such petition accepted by it for consideration and said board of county commissioners shall have full authority to make such independent investigation of the matter of such petition as it shall deem advisable and to base its judgment on such independent investigation as well as upon the evidence submitted for and against the petition upon a hearing thereon as hereinafter provided. [1949 c 56 s 7; Rem. Supp. 1949 s 7505-26. Formerly RCW 87.80.070 and 87.80.080.]

RCW 87.80.090 Creation of board of joint control—Resolution filed. If the board of county commissioners determine[s] that the creation of a board of joint control is in the public interest, of benefit to the irrigation entities and individual water uses within those entities concerned, and will not be detrimental to water right interests outside the proposed board of joint control area of jurisdiction: Then the county board shall so find and adopt a resolution creating the board of joint control, designating it (name of county) County Joint Control Board No. (specify number), and the county board at the same time shall appoint the first members of the board of joint control based on the board composition proposed in the petition and the board of joint control shall consist of this membership. A copy of the resolution creating the board of joint control certified by the clerk of the county board shall be filed with the county assessor of the county in which the board of joint control was created and with the county assessor in any other county in the state in which any lands involved are situated, within five days after the resolution is adopted. [1996 c 320 s 7; 1949 c 56 s 8; Rem. Supp. 1949 s 7505-27.]

RCW 87.80.100 Principal office, oaths, terms, of board—Representation on board. The principal office and place of business of the board of joint control shall be at a place to be designated by the board in the county in which the board was created. Each member of

the board before entering on the duties of his or her office shall subscribe a written oath for the faithful discharge of his or her duties as a member and file the oath with the county clerk of the county. The filing of the oath shall be without clerk's fee. The term of office of members of the board is for one year or a fraction thereof ending on the first Monday in March next following their selection and until their respective successors are selected as provided in this section. The term of the first members of the board shall also be as above stated. In January of each year the board of directors of each irrigation entity concerned shall designate in writing and deliver to the board of joint control, the name or names of the person or persons who constitute the entity's membership and who shall represent the entity on the board of joint control for the ensuing year. The persons designated under this section constitute the board of joint control for the year and until their respective successors are selected and have qualified. Any irrigation entity that fails to designate its representative and to file the same as provided in this section is not entitled to representation on the board unless and until the requirements are complied with. [1996 c 320 s 8; 1949 c 56 s 9; Rem. Supp. 1949 s 7505-28.]

RCW 87.80.110 Organization of board—Meetings—Quorum. In the month of March, or another time as determined by the board of joint control, in each year the members of the board of joint control shall meet and organize as a board for the ensuing year and shall select a chair from their number and appoint a secretary who may, but need not, be a member of the board, and who shall keep a record of their proceedings, and perform other duties as the board prescribes. Business of the board shall be transacted at meetings thereof and a majority of the qualified membership of the board constitutes a quorum for the transaction of business and in all matters requiring action by the board there shall be a concurrence of at least a majority of the members present. However, if an alternative voting structure was proposed in the petition and adopted in the board of county commissioners' resolution, this structure will govern the voting procedures of the board of joint control. All meetings of the board shall be public. [1996 c 320 s 9; 1949 c 56 s 10; Rem. Supp. 1949 s 7505-29.]

RCW 87.80.120 Compensation of board members and employees. Each member of the board of joint control shall be compensated for services in accordance with the provisions of RCW 87.03.460. The amount must be fixed by resolution and entered in the minutes of the proceedings of the board. The board shall fix the compensation to be paid the secretary and all other agents and employees of the board. [1996 c 320 s 10; 1949 c 56 s 11; Rem. Supp. 1949 s 7505-30.]

RCW 87.80.130 Powers of board of joint control—Limitation. (1) A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts; to accept grants and loans, including, but not limited to, those provided under chapter 43.83B [RCW] and RCW 43.83.340, to appoint and employ and discharge

the necessary officers, agents, and employees; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation entities represented on the board as a whole have a common interest without making the irrigation entities parties to the suit; to represent the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter. A board of joint control may, subject to the same limitations as an irrigation district operating under chapter 87.03 RCW, acquire any property or property rights for use within the board's area of jurisdiction by power of eminent domain; acquire, purchase, or lease in its own name all necessary real or personal property or property rights; and sell, lease, or exchange any surplus real or personal property or property rights. Any transfers of water, however, are limited to transfers authorized under subsection (2) of this section.

(2) (a) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law.

(b) Prior to undertaking a water conservation or system efficiency improvement project that will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and, if the board's jurisdiction is within a United States reclamation project, the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users.

(c) A board of joint control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction, without the approval of the department of ecology pursuant to RCW 90.03.380 and, if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation. Any change in place of use that results from a transfer of water between the individual entities of the board of joint control shall not result in any reduction in the total water supply available in a federal reclamation project. In making the determination of whether a change of place of use in an area covered by a federal reclamation project will result in a reduction in the total water supply available, the board of joint control shall consult with the bureau of reclamation.

(d) The board of joint control shall notify the department of ecology, and any Indian tribe requesting notice, of transfers of water between the individual entities of the board of joint control. This subsection (2) (d) applies only to a board of joint control created after January 1, 2003.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefiting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997. [2015 1st sp.s. c 4 s 53; 2003 c 306 s 3; 1998 c 84 s 2; 1996 c 320 s 11; 1949 c 56 s 12; Rem. Supp. 1949 s 7505-31.]

RCW 87.80.135 Board's limitations. A board of joint control created under this chapter is limited to the membership, area of jurisdiction, and other terms and conditions contained in the resolution of the board of county commissioners filed under RCW 87.80.090. Amendments may be proposed at any time by the board of joint control to the board of county commissioners and acted upon through the petition process contained in RCW 87.80.030 through 87.80.090. [1996 c 320 s 16.]

RCW 87.80.160 Entity's levy to include budget apportionment. Immediately after final adoption of the budget the secretary of the board shall mail or deliver a copy thereof showing the apportionment of the charge to each irrigation entity, to the secretary of each irrigation entity coming under the jurisdiction of the board of joint control and it shall be the duty of each irrigation entity to include in its levy for the ensuing year, the amount apportioned and charged to it in the budget. [1996 c 320 s 13; 1949 c 56 s 15; Rem. Supp. 1949 s 7505-34.]

RCW 87.80.190 Control fund created—Deposits and remittances. There is created in the county treasurer's office of the county in which the board of joint control was created, a special fund to be designated Control Fund of the (naming the county) County Joint Control Board No. (specifying the number). The county treasurer shall distribute all collections for this fund to the control fund. The treasurer of any other county collecting assessments for this fund shall remit the assessments monthly to the county treasurer of the county in which the board of joint control was created. However, at the option of the board of joint control, a treasurer other than the county treasurer may be designated under RCW 87.03.440. [1996 c 320 s 14; 1949 c 56 s 18; Rem. Supp. 1949 s 7505-37.]

RCW 87.80.200 Payments from control fund. When the county treasurer serves as treasurer for the board of joint control, the board of joint control shall issue vouchers for its operations against the control fund and the county treasurer shall pay out moneys from the fund upon warrants drawn by the county auditor of said county. [1996 c 320 s 15; 1949 c 56 s 19; Rem. Supp. 1949 s 7505-38.]

RCW 87.80.220 Agencies under contract with federal government—Ability to participate in board. An irrigation entity under contract with an agency of the federal government for the construction or operation of its irrigation system may not participate in a board of joint control under this chapter if this action is in conflict with provisions of the subject contract. If a responsible official of the federal agency notifies the board of county commissioners in writing on or before the day of hearing provided under RCW 87.80.060 of a conflict in contract provisions and evidences the conflict, the board of county commissioners must deny the irrigation entity's proposed participation. If subsequent to formation of a board of joint control, a judicial decision determines a conflict in contract conditions, the irrigation entity must not participate in a project or activity inconsistent with the court determination. [1996 c 320 s 17.]

RCW 87.80.230 Board created among entities using Yakima river and tributaries—Coordination with federal and state programs. A board of joint control created among irrigation entities utilizing waters of the Yakima river and tributaries shall, when undertaking water conservation projects, fully coordinate those projects with federal and state programs adopted under the Yakima river basin water enhancement project, P.L. 103-434. The projects shall be developed and implemented, consistent with the board's development schedule, within the framework of the Yakima river basin water enhancement project policies and procedures provided by the state and federal governments, as funds are available to the board of joint control for the projects. However, should there be no reasonable prospect of funding for construction by the federal and state government within three years of the date of the publication of the Yakima river basin conservation plan under P.L. 103-434, the board of joint control may pursue the projects under alternative funding programs and conditions. [1996 c 320 s 22.]

RCW 87.80.900 Effect of chapter on general water rights adjudications. This chapter shall not affect the final decree of a general adjudication conducted under RCW 90.03.110 through 90.03.245. [1996 c 320 s 23.]

RCW 87.80.901 Construction—2003 c 306. The provisions of chapter 306, Laws of 2003 shall not be construed or interpreted to authorize the impairment of any existing water rights. [2003 c 306 s 4.]