WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1947

ENROLLED

HOUSE BILL No. 444

(By Mr. Atkins)

PASSED March 7, 1947

In Effect July 1, 1947
AN ACT authorizing the creation of the Ceredo-Kenova flood wall board for the custody of and the control of the administration, operation and maintenance of flood walls within or surrounding the municipalities of the town of Ceredo and the city of Kenova, prescribing the qualifications of the members of said board, the manner of their appointment, their powers and duties, and providing for raising, collecting, custody and expenditure of funds necessary for the functioning of said board and the performance of their duties as provided herein or which may be provided by ordinance or ordinances adopted by the common councils of said municipalities.

Be it enacted by the Legislature of West Virginia:

Section 1. Ceredo-Kenova Flood Wall Board.—The common councils of the municipalities of the town of Ceredo and the city of Kenova in the county of Wayne
and state of West Virginia are hereby authorized to create in the manner hereinafter provided a flood wall board to be known as the "Ceredo-Kenova Flood Wall Board", which board shall have the custody of and control of the administration, operation and maintenance of all flood walls located within and surrounding the territorial boundaries of said municipalities and including but not limited to, all instrumentalities necessary for the operation of said walls. The word "board", when hereinafter used, shall be construed to mean the "Ceredo-Kenova Flood Wall Board", and the word "municipalities", when hereinafter used, shall mean the town of Ceredo and the city of Kenova.

Sec. 2. Appointment of Board; Term; Filling Vacancies.—The board shall consist of three members, two of whom shall be residents and voters of the city of Kenova and the other member shall be a resident and voter of the town of Ceredo. Two members of the board shall be appointed by the common council of the city of Kenova and one member of said board shall be appointed by the common council of the town of Ceredo. The first two
members of said board appointed by the common council of the city of Kenova shall hold office for a term of two years and six years, respectively, and their terms shall be designated by the resolution appointing them; and the first member of the board appointed by the common council of the town of Ceredo shall hold office for the term of four years. Thereafter the members of said board shall be appointed for a term of six years. The members of the board shall be chosen without regard to their political affiliations. Any appointment to fill a vacancy arising from any cause shall be for the remainder of the unexpired term. Any member of such board may be removed for cause at any time by a majority of the common council appointing such members. Such removal shall be upon written charges and before being removed such member shall have the right to a public hearing.

Sec. 3. Board a Corporate Body.—The board provided for herein shall be a body corporate, may sue and be sued, shall have a common seal, shall keep records of its proceedings in a book provided for that purpose, and shall designate a presiding officer, a secretary-treasurer and such other officers as the board may desire.
Sec. 4. *Powers and Authority of Board.*—The board shall have the power and authority to establish by-laws, rules and regulations for its own government and for the operation, maintenance and control of the flood walls under its jurisdiction and all instrumentalities used in connection therewith. Such by-laws, rules and regulations shall not be in conflict with the provisions of this act, general law and the ordinances passed from time to time by the common councils of the municipalities, and said board shall have such additional powers and duties as the municipalities may by ordinance lawfully confer on it.

Sec. 5. *Budget of Board.*—The board shall once each year on or before the thirty-first day of May, prepare and present to the common councils of the municipalities a budget of the anticipated financial requirements necessary for the performance of the duties imposed by this act and ordinances passed in pursuance thereof.

Sec. 6. *Acceptance of Act by Adoption of Uniform Ordinance.*—The common councils of said municipalities in their discretion and pursuant to the authority vested
in them by this act may adopt a uniform ordinance reciting therein their purpose to accept the provisions of this act to create the flood wall board herein provided for, and thereby confer on said board the supervision and control of the custody of, administration, operation and maintenance of the flood walls and all instrumentalities necessary for their operation, surrounding and within the territorial limits of said municipalities, and may confer on said board such other powers as may be proper and necessary for the performance of their duties under this act and any ordinance passed in pursuance thereof.

Sec. 7. Funds of Board; Zoning; Levy; Special Assessments.—If the ordinance provided in section six hereof shall be passed by the municipalities, they shall provide in said ordinance for adequate funds to meet the financial requirements as hereinbefore provided. Said funds may be provided by a general levy on all real and personal property situated within the municipalities; or the common councils of said municipalities may, in their discretion, by ordinance zone said municipalities in a proper manner and levy special assessments on the basis of bene-
fits accruing to property owners within the respective zones as designated by said ordinance; either of the alternative methods shall be taken to comply with the provisions of this act. If either method is adopted for raising the funds required herein, the provisions of the ordinance providing for such tax or special assessment shall be uniform as to persons and property throughout the town of Ceredo and the city of Kenova. The funds derived from either taxes or assessments shall not be expended by the common councils of said municipalities for any purpose other than for the maintenance, operation, and control of said flood walls and their instrumentalities.

Sec. 8. *Collections by Sheriff of Wayne County; Bond.*

—The sheriff of Wayne county shall collect all funds in accordance with the provisions of the ordinance to be adopted, and shall pay to the proper officer of the board on or before the fifth day of each month all funds theretofore collected by him. The sheriff shall execute a bond to be approved by the board in a penalty to be fixed by the board not to exceed the amount of money which may
come into his hands within a period of two months. The
premium for such bond shall be paid by the board. If
the sheriff shall fail to make payment when due, he shall
be charged with interest at the rate of twelve per cent
per annum.

Sec. 9. Delinquent Lists; Publication; Tax Lien.—Said
sheriff, after ascertaining that any tax or special assess-
ment, as provided in the ordinance, is unpaid, shall on or
before the first day of July next of the succeeding year
for which the tax or special assessment was levied, pre-
pare a separate delinquent list for each of the munici-
palities and certify the same to said common councils.
The common councils of said municipalities shall there-
upon cause the lists of the municipality to which it per-
tains to be published in the same manner that delinquent
lists for state and county taxes are published, and the
common councils of said municipalities are hereby given
all remedies conferred by law on municipalities for the
collection of other taxes or special assessments. Any tax
or special assessments levied as herein provided shall be
a lien upon the real estate owned by the person charged
therewith from and after the recordation of said lien in
the office of the clerk of the county court of Wayne
county, West Virginia. Said lien shall be recorded in the
same manner as a judgment lien.

Sec. 10. *Expenditure of Funds; Bonds of President and
Secretary-Treasurer.*—All moneys expended by the board
shall be by order or check drawn on the funds at the dis-
posal of the board, which check or order shall be signed
by the presiding officer of the board and countersigned
by the secretary-treasurer thereof. The president and
secretary-treasurer shall give bond for the faithful per-
formance of their duties and to account for and pay over
all funds in their custody, which bond shall be in a pen-
alty to be fixed by the board, but shall not exceed the
sum of ten thousand dollars for each. The accounts of
the board, its president and secretary-treasurer shall be
audited in the same manner as the accounts of the munici-
palities creating it are audited.

Sec. 11. *Board Subject to Federal Law and Regulations; Hay Grown on Walls.*—The board created hereby
shall be subject to all laws of the United States and reg-
ulations of the war department of the United States of America. Said board shall have charge of all hay, growing in and on said flood walls, or any portion thereof.

Sec. 12. Uniform Ordinances.—The ordinances adopted by the common councils of the municipalities hereunder shall be uniform in each municipality and shall be a counter-part of each other.

Sec. 13. Jurisdiction of Wayne County Circuit Court.—An appeal shall be to the circuit court of Wayne county, West Virginia, from any action by the common councils of the municipalities and by the board or either of them.

Sec. 14. Provisions Severable; Inconsistent Acts Repealed.—If any section of this act shall be held unconstitutional, such decision shall not affect the validity of any remaining section. All acts and parts of acts inconsistent herewith are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. O'Neal
Chairman Senate Committee

R.L. Matthews
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1947

Howard Hughes
Clerk of the Senate

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Clerk of the House of Delegates

Arnold W. Newkirk
President of the Senate

John E. Amos
Speaker House of Delegates

The within...this the 12th day of March, 1947.

Governor.

Filed in the Office of the Secretary of State of West Virginia MAR 13, 1947
WM. S. O'BRIEN, Secretary of State