

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



# ENROLLED

HOUSE BILL No. 444

(By Mr. Adkins)



PASSED March 7, 1947

In Effect July 1, 1947 Passage



444

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**House Bill No. 444**

[By MR. ADKINS]

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[Passed March 7, 1947; in effect July 1, 1947.]

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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  
2 common councils of the municipalities of the town of  
3 Ceredo and the city of Kenova in the county of Wayne

4 and state of West Virginia are hereby authorized to cre-  
5 ate in the manner hereinafter provided a flood wall board  
6 to be known as the "Ceredo-Kenova Flood Wall Board",  
7 which board shall have the custody of and control of the  
8 administration, operation and maintenance of all flood  
9 walls located within and surrounding the territorial boun-  
10 daries of said municipalities and including but not limited  
11 to, all instrumentalities necessary for the operation of  
12 said walls. The word "board", when hereinafter used,  
13 shall be construed to mean the "Ceredo-Kenova Flood  
14 Wall Board", and the word "municipalities", when here-  
15 inafter used, shall mean the town of Ceredo and the city  
16 of Kenova.

Sec. 2. *Appointment of Board; Term; Filling Vacan-*  
2 *cies.*—The board shall consist of three members, two of  
3 whom shall be residents and voters of the city of Kenova  
4 and the other member shall be a resident and voter of  
5 the town of Ceredo. Two members of the board shall be  
6 appointed by the common council of the city of Kenova  
7 and one member of said board shall be appointed by the  
8 common council of the town of Ceredo. The first two

9 members of said board appointed by the common coun-  
10 cil of the city of Kenova shall hold office for a term of  
11 two years and six years, respectively, and their terms  
12 shall be designated by the resolution appointing them;  
13 and the first member of the board appointed by the com-  
14 mon council of the town of Ceredo shall hold office for  
15 the term of four years. Thereafter the members of said  
16 board shall be appointed for a term of six years. The  
17 members of the board shall be chosen without regard to  
18 their political affiliations. Any appointment to fill a va-  
19 cancy arising from any cause shall be for the remainder  
20 of the unexpired term. Any member of such board may  
21 be removed for cause at any time by a majority of the  
22 common council appointing such members. Such removal  
23 shall be upon written charges and before being removed  
24 such member shall have the right to a public hearing.

Sec. 3. *Board a Corporate Body.*—The board provided  
2 for herein shall be a body corporate, may sue and be  
3 sued, shall have a common seal, shall keep records of its  
4 proceedings in a book provided for that purpose, and  
5 shall designate a presiding officer, a secretary-treasurer  
6 and such other officers as the board may desire.

Sec. 4. *Powers and Authority of Board.*—The board  
2 shall have the power and authority to establish by-laws,  
3 rules and regulations for its own government and for the  
4 operation, maintenance and control of the flood walls  
5 under its jurisdiction and all instrumentalities used in  
6 connection therewith. Such by-laws, rules and regula-  
7 tions shall not be in conflict with the provisions of this  
8 act, general law and the ordinances passed from time to  
9 time by the common councils of the municipalities, and  
10 said board shall have such additional powers and duties  
11 as the municipalities may by ordinance lawfully confer  
12 on it.

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

Sec. 6. *Acceptance of Act by Adoption of Uniform*  
2 *Ordinance.*—The common councils of said municipalities  
3 in their discretion and pursuant to the authority vested

4 in them by this act may adopt a uniform ordinance recit-  
5 ing therein their purpose to accept the provisions of this  
6 act to create the flood wall board herein provided for,  
7 and thereby confer on said board the supervision and  
8 control of the custody of, administration, operation and  
9 maintenance of the flood walls and all instrumentalities  
10 necessary for their operation, surrounding and within the  
11 territorial limits of said municipalities, and may confer  
12 on said board such other powers as may be proper and  
13 necessary for the performance of their duties under this  
14 act and any ordinance passed in pursuance thereof.

Sec. 7. *Funds of Board; Zoning; Levy; Special Assess-*  
2 *ments.*—If the ordinance provided in section six hereof  
3 shall be passed by the municipalities, they shall provide  
4 in said ordinance for adequate funds to meet the financial  
5 requirements as hereinbefore provided. Said funds may  
6 be provided by a general levy on all real and personal  
7 property situated within the municipalities; or the com-  
8 mon councils of said municipalities may, in their discre-  
9 tion, by ordinance zone said municipalities in a proper  
10 manner and levy special assessments on the basis of bene-

11 fits accruing to property owners within the respective  
12 zones as designated by said ordinance; either of the al-  
13 ternative methods shall be taken to comply with the pro-  
14 visions of this act. If either method is adopted for raising  
15 the funds required herein, the provisions of the ordin-  
16 ance providing for such tax or special assessment shall  
17 be uniform as to persons and property throughout the  
18 town of Ceredo and the city of Kenova. The funds de-  
19 rived from either taxes or assessments shall not be ex-  
20 pended by the common councils of said municipalities  
21 for any purpose other than for the maintenance, opera-  
22 tion, and control of said flood walls and their instrumen-  
23 talities.

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

2 —The sheriff of Wayne county shall collect all funds in  
3 accordance with the provisions of the ordinance to be  
4 adopted, and shall pay to the proper officer of the board  
5 on or before the fifth day of each month all funds there-  
6 tofore collected by him. The sheriff shall execute a bond  
7 to be approved by the board in a penalty to be fixed by  
8 the board not to exceed the amount of money which may

9 come into his hands within a period of two months. The  
10 premium for such bond shall be paid by the board. If  
11 the sheriff shall fail to make payment when due, he shall  
12 be charged with interest at the rate of twelve per cent  
13 per annum.

Sec. 9. *Delinquent Lists; Publication; Tax Lien.*—Said  
2 sheriff, after ascertaining that any tax or special assess-  
3 ment, as provided in the ordinance, is unpaid, shall on or  
4 before the first day of July next of the succeeding year  
5 for which the tax or special assessment was levied, pre-  
6 pare a separate delinquent list for each of the municipi-  
7 palities and certify the same to said common councils.  
8 The common councils of said municipalities shall there-  
9 upon cause the lists of the municipality to which it per-  
10 tains to be published in the same manner that delinquent  
11 lists for state and county taxes are published, and the  
12 common councils of said municipalities are hereby given  
13 all remedies conferred by law on municipalities for the  
14 collection of other taxes or special assessments. Any tax  
15 or special assessments levied as herein provided shall be  
16 a lien upon the real estate owned by the person charged



17 therewith from and after the recordation of said lien in  
18 the office of the clerk of the county court of Wayne  
19 county, West Virginia. Said lien shall be recorded in the  
20 same manner as a judgment lien.

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

Sec. 11. *Board Subject to Federal Law and Regula-*  
2 *tions; Hay Grown on Walls.*—The board created hereby  
3 shall be subject to all laws of the United States and reg-

4 ulations of the war department of the United States of  
5 America. Said board shall have charge of all hay, grow-  
6 ing in and on said flood walls, or any portion thereof.

Sec. 12. *Uniform Ordinances.*—The ordinances adopt-  
2 ed by the common councils of the municipalities here-  
3 under shall be uniform in each municipality and shall be  
4 a counter-part of each other.

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

Sec. 14. *Provisions Severable; Inconsistent Acts Re-*  
2 *pealed.*—If any section of this act shall be held unconsti-  
3 tutional, such decision shall not affect the validity of any  
4 remaining section. All acts and parts of acts inconsistent  
5 herewith are hereby repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McNear  
Chairman Senate Committee

R. L. Matthews  
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1947 ~~passage~~.

Howard Myers  
Clerk of the Senate

James  
Clerk of the House of Delegates

Arnold M. Vickers  
President of the Senate

John E. Amos  
Speaker House of Delegates

The within Approved this the 12<sup>th</sup>  
day of March, 1947.

Glenn Meadows  
Governor.



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