§ 15-2303. River improvement districts.

1. Bodies corporate which shall consist of and be known as river improvement districts may be created as herein provided to carry out the purposes of title 23 of this article on some particular stream or part thereof. Such river improvement districts are declared to be public corporations and shall have perpetual existence and the power to acquire, hold or sell such real estate or other property as may be necessary, to sue and to be sued, to incur contract liabilities, to exercise the right of eminent domain and of assessment and taxation and to do all acts and exercise all powers necessary to accomplish the purposes of title 23 of this article. Such powers shall be exercised by and in the name of the district. The governing body of the district shall be the department, unless such district be combined with a river regulating district as provided below. Any watershed of the state or any integral part of such watershed may be created into a river improvement district pursuant to the provisions of title 23 of this article. The debts, liabilities and obligations incurred by a river improvement district shall in no event be construed as debts, liabilities or obligations of the State of New York, and neither the department nor any member thereof in his individual capacity shall be liable therefor. Any river improvement districts heretofore formed under the provisions of this chapter are hereby declared to be bodies corporate and all the provisions of this section shall be applicable to such river improvement districts. The general provisions and definitions appearing in sections 15-1903 and 15-2101 are also applicable to title 23.

2. Any county, city, town or village, or any person or persons owning lands situated on, bordering on or near any river or watercourse may present to the department a petition, duly verified, praying for the formation of a river improvement district. The petition shall set forth the facts as to the effects on life, health, welfare and property of the present flow of the stream and may state the method whereby the petitioners believe that the conditions complained of can be remedied or bettered. The department may by rule prescribe the form and nature of the contents of such petition. On receipt of such petition the department shall cause the matter to be investigated. The department may

make tentative determinations as to remedial measures, what properties would be benefited, the cost of the work and the division of such costs between public corporations and private owners; or it may find that the relief sought is impracticable or not of sufficient importance to warrant state interference.

3. Notice of a hearing shall be given as follows:

a. The department shall set forth the material in subdivision 2 above in a report which shall be filed and notice of such filing, together with the notice of a public hearing thereon, shall be given. If the report is favorable, the notice shall also state that the department contemplates the making of a survey and of an assessment of the costs of the project, the costs of which survey and assessment will be assessed on the properties and public corporations surveyed or assessed as beneficiaries.

b. Whenever the department is required to give notice of a hearing or of any act performed or contemplated, it shall be given in accordance with the provisions of subdivision 1 of section 15-0903.

4. At the hearing the department shall hear testimony and arguments with regard to the proposed project. Thereafter the department shall determine whether the public health, safety or welfare require the formation of the district and shall make a final order with regard thereto. Such an order forming a district shall describe the boundaries thereof and state the name of the district and shall include orders to make surveys, studies, estimates and assessments. The final order shall be filed and notice of such filing given.

5. The department may proceed to make such surveys of the lands in the proposed district and the boundaries thereof and of the river and its tributaries and such other areas as may be necessary. For the carrying out of the purposes of this title 23 the department and its authorized agents may enter upon any such land as in its judgment may be necessary, the district being liable only for actual damage done thereby. The amount of such damages may be agreed upon between the department and the

owner or occupant of such lands or if they cannot agree the amount of such damages shall be ascertained and determined by proper court action.

6. After the completion of the surveys the department shall prepare maps of the proposed district showing the boundaries thereof, the boundaries and area of each public corporation in so far as it lies within the district, the boundaries of each parcel of land in the district which is to be directly assessed, together with the name of the owner thereof as far as the same may be ascertained. Where a parcel is intersected by the boundary of a public corporation, the area in such parcel in each such public corporation shall be separately given. The boundaries shall include all properties benefited, and may include properties not benefited if necessary to make the district a continuous area with reasonably simple boundaries. Such maps shall also show as far as may be necessary the topography, and the natural and artificial features of the lands within the district or elsewhere. The department shall also show on such maps and other plans the location and general structural details of such works as may be required for the proposed improvement. The department shall also prepare a general description of the proposed works and an estimate of the cost of constructing such works.

7. The department shall also determine the amount of benefit which will accrue to each parcel of land in the district and shall apportion the cost of such work among such parcels in proportion to the benefit which each will derive therefrom. If the department finds that any public corporation will be benefited in its corporate capacity, it shall state what proportion of the total cost of the works or of the various parts thereof shall be borne by such public corporation and only the remaining portion of the work shall be assessed on the individual owners. The department shall prepare a statement of its assessment and apportionment. Certified copies of such maps, plans, estimates and other papers and of the assessment and apportionment shall be filed and notice of such filing and of the time and place for the hearing thereof shall be given.

8. Thereafter the department shall proceed to hold the hearing and to

consider the testimony and arguments presented thereat. If it shall appear that additional areas should be included in the district and that additional surveys are necessary, the department shall so determine and may proceed to make such surveys in the same manner as is provided for the original surveys. Upon completion of such hearings the department shall determine whether or not it is to the public interest to grant the petition, form the district and carry out the project, whether all properties which will be benefited by the proposed works are included in the district and whether the assessment and apportionment is just and equitable, and it shall make a final order with regard thereto. Certified copies of such final order shall be filed and notice of such filing given. After the expiration of the time for review of such an order, if no review is had, or after the review is completed, the department shall cause the same to be recorded. The district shall be held to have been formed on the date of such final order but such formation shall not be effective until such order as made or as modified on review shall have been recorded.

9. Any determination, apportionment, decision, order, maps or plans which the provisions of this title require to be filed and notice of such filing to be given, except in the case where a hearing is to be held may be reviewed by any interested party as provided in section 15-0905.

10. Wherever it is required in title 23 of this article that copies of maps and documents be filed, certified copies thereof shall be filed in the offices of the clerks of each county, town, city or incorporated village, any part of which is included in the district or proposed district. Wherever it is required in title 23 of this article that any document be recorded, the department shall cause a certified copy thereof to be sent to the clerk of each county, any part of which is included in the district or proposed district, and such clerk shall thereupon record such document.

11. The department may change the boundaries of a district, consolidate two or more districts or subdivide an existing district into two or more districts, the procedure for which shall be the same as is

provided for herein for the formation of a district, in so far as the same is applicable.

12. Apportionment of costs shall be as follows:

a. Whenever it is practicable so to do, the department shall include in the cost of any survey made, or construction, maintenance or repair work carried out under provisions of title 23 of this article the cost of all proceedings, hearings, notifications, filings, recordings, engineering, legal and all other services and expenses which lawfully may be incurred, including the cost of acquisition of lands and rights-of-way, suits and prosecutions.

b. To pay the expenses of the surveys, preparation of maps, plans and estimates, the making of the assessment, the holding of the required hearings and other matters required by the provisions of this section, the department may make funds available therefor. The assessment of such costs shall be divided between public corporations and private persons in the manner set forth in the district assessment; the remaining amount shall be assessed on all the properties in the proposed district as shown by the maps filed in proportion to the assessed valuation of such properties. In the event that any such property is cut by the district boundary, the department shall request the local assessors to divide the assessment between the portion within and that without the district and it shall be the duty of such assessors to make such division.

13. At any time after the formation of a district petition may be made to the department for additional construction or for major changes in the project already adopted or the department, of its own motion, may suggest such changes or additions. The procedure shall be that specified in this section as far as it is applicable. The same procedure may also be followed in order to authorize the raising of additional funds for a project already adopted, should it be found that sufficient funds were not originally authorized.