

CHAPTER XCVIII.

[H. B. No. 108.]

PROVIDING FOR VIEWING, LAYING OUT AND SURVEYING COUNTY ROADS.

AN ACT providing for viewing, laying out and surveying public roads, and providing for the award of damages in the location of said roads, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. When ten or more freeholders of any county desire to have a county road viewed, laid out, surveyed and established, they shall file in the superior court of the county a petition setting forth: The beginning and terminal points of the proposed road, and the general route thereof, as near as may be; the width of the proposed road, which shall not be less than thirty feet, nor more than sixty feet; that the proposed road is a practicable one, and that the petitioners are residents in the vicinity of said road and interested in the opening thereof; and that said road will be of general use and public benefit.

SEC. 2. At the time of filing such petition one or more of the signers of any such petition shall enter into bond in the sum of two hundred dollars, payable to the state for the use of the county, with two or more sureties to be approved by the county clerk, conditioned that the persons making application for the proposed road will pay into the county treasury the amount of all costs and expenses incurred in the view and survey of said proposed road, in case the petitioner [petition] therefor is not granted.

Petitioner to file bond.

SEC. 3. When the petition and bond have been filed and the bond approved, the court shall fix a day for hearing the petition for the appointment of viewers which shall not be less than ten nor more than twenty days from the date of the approval of the bond. Notice of such hearing shall be issued by the clerk and shall be posted by the principal petitioner at least ten days before the day for such hearing at the following places: One copy at the place where the court for said county is held; one copy at the beginning point on the proposed road; two copies at two of the most

Time for hearing petition.

Notice of hearing.

public places in the vicinity of the contemplated route of the proposed road. On the hearing of the petition, if notice of such hearing has been regularly issued and posted, the court shall appoint three disinterested persons, residents of the county, one of whom may be the county surveyor, to view and lay out the proposed road, and to assess the damages to the premises of any person through whose land the proposed road will run; and the court shall appoint a time for the viewers to meet and view and lay out the proposed road: *Provided*, That if a remonstrance is filed, and on the hearing of the petition and remonstrance it appears to the court that the proposed road will be impracticable or that it is not of public necessity and will not be of general use, the petition shall be dismissed.

Proviso.

SEC. 4. At the time and place named in the order of the court the county surveyor and the viewers shall meet and shall select two chainmen and not more than three other persons to act as axmen and flagmen, and after the viewers and chainmen have been sworn to faithfully and impartially discharge their respective duties, they shall proceed to view, lay out and survey the proposed road.

Report of viewers and surveyor.

SEC. 5. Within ten days after making the view and survey of the proposed road, the viewers must file a report of their doings in the matter, which shall show—

1. The course, termini and length of the proposed road.
2. A description of the land appropriated and the names of the owners thereof, when known, and if the names of any of the land owners are unknown, the report must state that fact.
3. The estimate of damage to the owner of any land over which the proposed road will run.
4. The names of land owners who consent to give the right-of-way, and their written consent thereto.

The report of the viewers shall be accompanied by the plat or map of the county surveyor, which shall show the route of the proposed road as surveyed, and the quantity or area of land necessary to be taken for the proposed road belonging to any person through whose lands the said road has been surveyed: *Provided*, That said road shall, so far as practicable, be upon section or quarter section lines.

SEC. 6. When the report of the viewers and the map of the surveyor has been filed in the office of the clerk of the court, the clerk shall give notice, as herein provided, that on a day to be fixed by the court, the court will hear the said petition and consider the report of the viewers and the award of damages made by the viewers. Said notice shall be published for three consecutive weeks in a newspaper of general circulation in the county, or if there be no newspaper published in the county, then to be published in the nearest paper in the adjoining county, proof of which publication shall be made by the affidavit of the foreman or publisher of such newspaper nearest the road: *Provided*, That in no case shall the cost of said notice exceed 50c. per square for first insertion, and 25c. for each additional insertion.

Time for hearing petition and report, etc.

Notice.

SEC. 7. At the time fixed for the hearing of said petition, and the report of the viewers thereon, the court shall proceed to hear the same and consider the award of damages. If on the hearing it appears to the court that the said road is practicable and that the same will be of general use and public benefit, the court shall order that the road be established as surveyed, and that the same be opened as may be provided by law for the opening of public roads; the court shall also order that the map of the surveyor and the order of the court be filed in the office of the county auditor. The court shall also direct the county auditor to draw his warrant on the county treasurer for the amount awarded to each person for damages by reason of the said road being laid out and surveyed across the premises of such person or persons: *Provided*, That if any person or persons through whose premises said road has been surveyed appear and contest the award, the court may empanel a jury and hear testimony on the subject.

Warrant for payment of damages.

SEC. 8. When the jury has performed the duty required to be performed by it the court shall order the county auditor to draw his warrant on the county treasurer for the payment of the damages so awarded, as provided in the preceding section.

Same.

SEC. 9. If it appears on the hearing of said petition that the proposed road is impracticable, or that the same will

Costs taxed to petitioners, when.

not be of general use and public benefit, the petition therefor shall be denied, and the costs of the hearing and of the view and survey shall be taxed to the principal and sureties on the bond, and may be collected by execution as costs in other cases.

Compensation for viewers, etc.

SEC. 10. The viewers, chainmen and other assistants herein provided for shall each receive two dollars and fifty cents per day while engaged in the view and survey of the road.

SEC. 11. In any county where no superior judge resides a court commissioner may be appointed who shall have power to hear and determine all matters under the provisions of this act which may properly be heard by the judge in chambers.

Transcript of proceedings to be furnished to auditor.

SEC. 12. After the establishment of any county road as hereinbefore provided, it shall be the duty of the county clerk forthwith, or as soon as may be, to furnish a complete transcript of the proceedings had in the establishment of such road to the county auditor of such county, such transcript of record to be copied by the auditor in the county road records of his office.

Emergency.

SEC. 13. There being no law on the subject herein contained providing for the procedure herein provided for, an emergency is declared to exist, and this act shall be in force from and after its passage and approval by the governor.

Approved March 9, 1893.