

CHAPTER LXXIX.

[H. B. No. 270.]

PROVIDING FOR PAYMENT OF EXPENSES INCURRED IN
CONSTRUCTION OF DITCHES, ETC.

AN ACT providing for the payment of expenses incurred in compliance with an act entitled "An act to provide for the construction, repairing and protection of drains and ditches for agricultural, sanitary and domestic purposes, and to provide for the organization of drainage districts, and declaring an emergency," approved March 19, 1890, and declaring an emergency.

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

Commission-
ers to purchase
lands, when.

SECTION 1. Where any ditch or drain or any portion thereof has been constructed in compliance with the provisions of an act of the legislature of the State of Washington entitled "An act to provide for the construction, repairing and protection of drains and ditches for agricultural, sanitary and domestic purposes, and to provide for the organization of drainage districts, and declaring an emergency," approved March 19, 1890, it shall be the duty of the board of county commissioners of any county in which the same is located, to purchase the lands occupied by or necessary to said drain or ditch, or any culverts, bridges or approaches thereto, or appurtenances to said drain or ditch, or acquire the same by condemnation proceedings, wherever title to such lands has not already been obtained, and to that end are hereby authorized to institute and maintain in the name of the county the proceedings provided in chapter 6 of title 9 of the Code of Procedure of the State of Washington, volume 2, as arranged and annotated by William Lair Hill.

Ditch fund
established.

SEC. 2. That said board of county commissioners shall establish a ditch fund named after such ditch or drain, and whenever there is not sufficient money to make the payments required under the provisions of section one of this act, they shall borrow money wholly on the faith of, and to be repaid wholly from, the moneys in such fund by issuing bonds payable out of said funds in denominations of not to exceed twenty dollars each, due on or before five years from date, and drawing not to exceed seven per cent.

interest per annum, in order to make such payments required pursuant to section one. Where said ditch or drain is uncompleted, or completed only in part, said board shall proceed to finish said ditch according to the survey and report of said improvement made in accordance with the provisions of said act of March 19, 1890, and pay for the same by warrants duly issued on said ditch fund, and the total cost of said improvement, including expenses heretofore incurred and warrants heretofore issued for the location, right-of-way and construction of said ditch, shall be paid as hereinafter provided.

SEC. 3. That said board of county commissioners shall, upon obtaining title to lands as provided in section one of this act, file the survey and report of said improvement, if any has been made, in accordance with the provisions of said act of March 19, 1890, and shall ascertain the aggregate cost of said ditch, and shall apportion the said cost to each lot, tract of land, road or railroad, according to the benefit which will result to each from said improvement, not exceeding the amount of such benefit, and shall fix a day for the hearing of said apportionment. The county auditor shall prepare a notice in writing directed to the resident lot or land owners, or to the municipal or private corporations affected by the improvement, setting forth a general description of the improvement, together with a tabular statement of the apportionment of the cost as hereinbefore provided for, which notice shall be served upon each lot or land owner and upon each member of any public board of authority and upon an officer or agent of such private corporation, in the manner provided for the service of a summons, at least eight days before the day set for the hearing, and return of service shall be made in the mode provided for the return of service of a summons in a civil action, and the notice and return shall be filed with the county auditor on or before the day of hearing, and the county auditor shall at the same time give like notice to each non-resident lot or land owner, either in the mode above prescribed or by publication in a newspaper printed and of general circulation in the county for at least two consecutive weeks before the day set for the hearing, proof

Apportionment of cost according to benefit.

Notice.

Notice to non-residents.

of which service shall be by affidavit of the publication of said notice during said time by the printer of such paper or other person knowing the fact, which proof shall be filed with the county auditor on or before said day of hearing.

SEC. 4. The county commissioners shall meet at their regular place of meeting on the day fixed for the hearing, and shall first determine whether the required notice has been given. If they find that due notice has not been given they shall continue the hearing to a day to be fixed by them, and order the notice to be served as hereinbefore provided, and when they find due notice has been given they shall examine said apportionment, and if it is in all respects fair and just according to benefits they shall approve and confirm the same.

Unjust apportionment.

SEC. 5. If the commissioners find that the apportionment is unfair and unjust, and ought not to be confirmed, they shall so order and amend it as to make it fair and just in proportion to benefits, and if necessary, in their opinion, they may adjourn the further hearing not exceeding twenty days to a day to be fixed by them, and go upon the premises and by actual view apportion the entire cost of location and construction, or any part thereof, according to benefits, as may seem just and proper, and on the day so fixed by them they shall again meet and determine the apportionment.

Exceptions filed.

SEC. 6. Any person or corporation party to the proceedings may file exceptions to the apportionment at any time before the time set for the final hearing of the report and apportionment. The commissioners may hear testimony and examine all witnesses upon questions made by the exceptions, and for that purpose may compel the attendance of the witnesses by subpoena, which the clerk of the superior court shall issue on demand, and their decision on the exceptions shall be entered upon the journal, and if they sustain the exceptions the cost of hearing thereon shall be paid out of the county treasury, and if they overrule the same such costs shall be taxed against such person or corporation filing the exceptions.

Assessments, when made.

SEC. 7. When the cost of said ditch shall have been approved as hereinbefore provided the commissioners shall

determine at what time and in what number of assessments, not to exceed four, they will require the same to be paid, and order that the assessments as made by them be placed upon the tax roll accordingly against the lots or lands assessed. When the commissioners make an assessment they shall cause an entry to be made directing the clerk of the board of county commissioners to make and furnish to the treasurer of the county a special tax roll with the assessment arranged thereon, as required by their order, and the clerk of the board of county commissioners shall retain a copy thereof in his office, and all assessments shall be liens on the property against which they are assessed, and shall be collected and accounted for by the treasurer as taxes: *Provided*, That the treasurer shall accept in payment of assessments the bonds issued under the provisions of section two of this act, and said treasurer shall place the assessments so collected in said ditch fund. The list thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees; and during the time it so remains any person may pay the amount of the charges against any tract to the treasurer without costs; or, if so ordered by the board of county commissioners, said payments may be by installments; and if, at the end of thirty days, or the longer period fixed by the said commissioners, any of the charges, or any of the installments ordered by them already due, has not been paid, the treasurer must transmit the list to the county attorney, who must at once proceed, by civil action, to collect such charges and foreclose the liens therefor. All moneys in said ditch fund shall be applied to the payment of any bonds issued by the county commissioners on the faith of said ditch fund, and to the payment of warrants issued for the construction of said ditch or drain and appurtenances and right-of-way, in the order of their issue. Wherever any assessments heretofore levied for said ditch have been paid, due credit for such payments shall be allowed, and the receipt given for such payments shall be received in lieu of a payment of a sum of money equal to the sum receipted for in the receipt.

Collections,
manner of.

Railroads to
pay for
benefits.

SEC. 8. When the improvement drains or benefits the whole or a part of any public or corporate road or railroad, there shall be apportioned to the county, if the road is a state, county or free turnpike road, or to the corporation if a corporate road or railroad, a share of the costs and expense thereof proportionate to the benefits to said road or railroad. All lands of the state or any county, school district or other municipal corporation, shall be subject to the provisions of this act, and when any assessment shall be apportioned against any school lands of the state, the county shall pay the same out of its general fund and have a lien on the proceeds of the sale of such lands, from which it shall be reimbursed.

SEC. 9. Whereas, certain indebtedness has been incurred under said act in this state which has been declared invalid, an emergency is hereby declared, and this act shall be in force from and after its passage and approval.

Passed the house March 9, 1895.

Passed the senate March 13, 1895.

Approved March 19, 1895.

CHAPTER LXXX.

[H. B. No. 191.]

RELATING TO APPROPRIATION BY CORPORATIONS OF LANDS GRANTED TO THE STATE.

AN ACT relating to private corporations and amending sections 1569, 1570, 1571 and 1572 of volume 1 of the General Statutes of the State of Washington, as arranged and annotated by Wm. Lair Hill.

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

SECTION 1. That section one thousand five hundred and sixty-nine of volume 1 of the General Statutes of the State of Washington, as arranged and annotated by Wm. Lair Hill, be amended to read as follows: "Section 1569. A corporation organized for the construction of any railway, macadamized road, plank road, clay road, canal or bridge,

Rights to pub-
lic lands.