

CHAPTER 243.

[H. B. 456.]

FILLING OF PRIVATE PROPERTY IN CERTAIN CITIES
WHERE NECESSARY AS A SANITARY MEASURE.

AN ACT to provide for the filling of private property in cities of the first and second classes where necessary as a sanitary measure.

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

SECTION 1. Whenever any city of the first or second class shall establish or shall have established the grade of any street or streets, alley or alleys, at a higher elevation than any private property abutting thereon, thereby rendering the drainage of such private property or any part thereof impracticable without the raising of the surface of such private property, or whenever the surface of any private property in any such city shall be so low as to make sanitary drainage thereof impracticable and it shall be determined by resolution of the city council of such city that a fill of such private property shall be necessary as a sanitary measure, such city shall have power to provide therefor as hereinafter set forth.

City empowered to fill private property.

SEC. 2. The city council shall, before establishing the new grade of such property or providing for such fill, first pass a resolution declaring its intention to make such improvement and giving in such resolution a description of the property proposed to be improved by such fill, the estimate of the cost of the same and stating that such cost is to be assessed against the property benefited thereby, and shall fix a time not less than thirty (30) days after the first publication of the said resolution as hereinafter specified within which protests against such proposed improvement may be filed in the office of the city clerk. Such resolution may, in the discretion of the council, include as many separate parcels of property as may seem desirable whether or not the same are contiguous, provided the same lie in the same general neighborhood and may conveniently be included in one local improvement district. It shall be the duty of the city clerk upon the passage of such resolu-

Resolution of council.

Publication of resolution.

tion to cause such resolution to be published in the official newspaper of such city in at least two (2) consecutive issues before the time fixed in such resolution for filing such protests, and proof of such publication by affidavit shall be filed as a part of the record of such proceeding.

Ordinance for improvement.

SEC. 3. If no protest is filed, or if such protest is filed and the said city council shall, notwithstanding such protest and after full hearing thereof if any protestant shall ask for such hearing, determine that it is necessary to fill such private property, or any portion or portions thereof, the city council shall then, or at a subsequent time, proceed to enact an ordinance for such improvement. By the provisions of such ordinance, a local improvement district shall be established to be called "Local Improvement District No.," which shall include all the property found by the said council as aforesaid to require such fill as a sanitary measure. Such ordinance shall provide that such improvement shall be made and shall fix and establish the grades to which the said property and the different portions thereof shall be brought by such improvement, and that the cost and expense thereof shall be taxed and assessed

Name of district.

upon all the property in such local improvement district, which cost shall be assessed in proportion to the number of cubic yards of earth and bulkheading required for the different portions of said property included in said improvement district and in proportion to the benefits derived by such improvement: *Provided*, That the city council may expend from the general fund for such purposes such sums as in their judgment may seem fair and equitable in consideration of the benefits accruing to the general public by reason of such improvement. Whenever any expense or cost of work shall have been assessed on any such land as hereinabove provided, the amount of such expense and cost shall become a lien upon said lands against

Assessment of property benefited.

Payment from general fund.

which the same are so assessed and shall take precedence of all other liens, except general tax liens and special assessment liens theretofore assessed by the said city thereon and which may be foreclosed in accordance with the code of civil procedure in the name of such city as plaintiff. And

Lien of assessment.

in any such proceeding if the court trying the same shall be satisfied that the work has been done or material furnished for the fill of such property, a recovery shall be permitted or charge enforced to the extent of the proper proportion of the value of the work or material which would be chargeable on such lot or land notwithstanding any informality, irregularity or defects in any of the proceedings of such municipal incorporation or its officers.

SEC. 4. The said city shall have power by general or special ordinance, or by general and special ordinance combined, in its discretion, to make provision for the necessary surveys, estimates, bids, contract, bond and supervision of the said work and for making and approving the assessment roll of said local improvement district and for the collection of the assessments made thereby, and for the doing of everything which in their discretion may be necessary in carrying out the purposes of this act, or may be incidental thereto: *Provided*, That before the approval of such assessment roll, notice shall be given and an opportunity offered for the owners of the property affected by such assessment roll to be heard before such city council in the same manner as in case of assessments for drainage and sewerage in any such city. Powers of council.

SEC. 5. Such city may, in its discretion, by general or special ordinance, or both, instead of requiring immediate payment for the said work to be made by the owners of property included in said assessment roll, authorize the issuance of interest bearing bonds or warrants of such local improvement district, which shall include the property liable to assessment for such improvement, the said bonds or warrants to be payable on or before a date not to exceed ten (10) years from and after their date and may be issued subject to call, the amount of the said assessment to be payable in installments or otherwise, and the bonds to be of such terms as shall be provided in such ordinance or ordinances and to bear interest at such rate as may be prescribed in such ordinance or ordinances, but not to exceed eight (8) per cent. per annum. Such bonds or Bonds of district.
Interest.

warrants shall be payable only from the funds created by the special taxes or assessments hereinbefore authorized upon the property in the said local improvement district, and the holder of any such bond or warrant shall look only to such fund for the payment of the principal and interest thereof and shall have no claim or lien therefor against the city by which the same was issued except from such fund.

Construc-
tion of act.

SEC. 6. The provisions and remedies provided by this act are and shall be cumulative of existing provisions and remedies, and nothing in this act contained shall be held to repeal any provision of the existing law or of any charter of any city upon the subject matter thereof, but such existing law or charter provision shall continue in full force and effect, and it shall be optional with the city authorities to proceed under either such existing law, charter provision or this act.

Passed the House March 8th, 1907.

Passed the Senate March 13th, 1907.

Approved by the Governor March 18th, 1907.

CHAPTER 244.

[H. B. 231.]

AMENDING ACT RELATING TO APPROPRIATION OF LANDS AND HIGHWAYS FOR CORPORATE PURPOSES.

AN ACT to amend an act entitled "An act to amend section 4334 of Ballinger's Annotated Codes and Statutes of Washington relating to the appropriation of lands and highways for corporate purposes." (Section 7089 of Pierce's Code.)

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

SECTION 1. That section 1 of an act to amend an act entitled "An Act to amend section 4334 of Ballinger's Annotated Codes and Statutes of Washington relating to the appropriation of lands and highways for corporate purposes," (section 7089 of Pierce's Code) be, and the same is hereby amended to read as follows: Sec. 1. Every corporation organized for the construction of any railway,