

CHAPTER 147.

[H. B. 208.]

RELATING TO FILLING LANDS BY CITIES OF SECOND AND THIRD CLASSES.

AN ACT empowering cities of the second and third class to fill low lands within their borders and for that purpose to exercise the right of eminent domain for the taking and damaging of property and providing a method for making compensation therefor and providing for levying and collection of special assessments on the property benefited and declaring an emergency.

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

SECTION 1. Whenever the city council of any city of the second and third class shall deem it necessary or expedient on account of the public health, sanitation, the general welfare, or other cause, to fill or raise the grade or elevation of any marsh lands, swamp lands, tide lands, or lands commonly known as tide flats, or any other low lands situated within the limits of such city, and to clear and prepare said lands for such filling, such city council shall have power so to do and the expense thereof, including the cost of making compensation for property taken or damaged, and all other costs and expense incidental to such improvement, shall be assessed to the property benefited, except such amount of such expense as the city council in its discretion, may direct to be paid out of the current or general expense fund. Proceedings for the filling and of changing the grade and elevation of any such lands may be had in the manner provided in this act.

Tide or
swamp lands
may be filled.

Special as-
sessment dis-
trict.

SEC. 2. Whenever the city council of any such city shall desire to make any improvement contemplated in section one of this act, such city council shall provide therefor by ordinance and unless such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessments upon the property benefited, compensation therefor shall be made from any general funds of such city applicable thereto. If such ordinance shall provide that such improvement shall be paid for wholly or in

Ordinance.

Boundaries
of district to
be specified.

part by special assessments upon property benefited, the proceedings for the making of such special assessment shall be as hereinafter provided. Such ordinance shall specify the boundaries of the proposed improvement district and shall describe the lands which it is proposed to assess for said improvement. Where any parcel of land within the boundaries of such proposed improvement district shall be wholly filled to the proposed grade elevation of the proposed fill, such parcel of land may be excluded from the lists of lands to be assessed, when in the opinion of the city council justice and equity require its exclusion. The boundaries of any improvement district may be altered so as to exclude land therefrom at any time up to the levying of the assessment as in this act provided, but such changing of the boundaries shall be by ordinance.

Damages,
how de-
termined.

SEC. 3. Whenever an ordinance shall be passed as in the preceding section of this act provided, and it shall appear that in making of such improvement so authorized, private property shall be taken or damaged thereby, the city shall file a petition in the superior court of the county in which such city is situated, in the name of the city, praying that just compensation to be made for the property to be taken or damaged for the improvement specified in such ordinance, be ascertained by a jury or by the court, in case a jury be waived, and all of the provisions of an act of the Legislature of the State of Washington, approved March 13, 1907, entitled, "An act to enable cities of the first, second and third classes and having a population of over 1,500 inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor and providing for special assessments in certain cases upon property benefited," and acts amendatory thereof shall be applicable to the proceeding had in the superior court under the provisions of this act for the ascertainment of the compensation to be made for the taking and damaging of property, except in so far as the same may be consistent with this act. The filling of unimproved and uncultivated low lands of the

Ch. 153, p.
316, L. '07.

character mentioned in section 1 of this act, shall not be considered as damaging or taking of such lands. The damage, if any, done to cultivated lands or growing crops thereon, or to buildings and other improvements situated within the district proposed to be filled, shall be ascertained and determined in the manner above provided; but no damage shall be awarded to any property owner for buildings or improvements placed upon lands included within said district after the publication of the ordinance referred to in section 2 of this act, defining the boundaries of the proposed improvement district: *Provided*, That the city shall after the passage of such ordinance, proceed with said improvement with due diligence. Where the improvement is to be made at the expense of the property benefited, no account shall be taken of benefits by the jury or court in assessing the amount of compensation to be made to the owner of any property within such district, but such compensation shall be assessed without regard to benefits to the end that said property for which damages may be so awarded, may be assessed the same as other property within the district for its just share and proportion of the expense of making said improvement, and the fact that compensation has been awarded for the damaging or taking of any parcel of land shall not preclude the assessment of such parcel of land for its just proportion of said improvement as hereinafter provided.

Unimproved
land not
damaged.

Damaged
property
assessed.

SEC. 4. At the time of the initiation of the proceedings for any improvement as contemplated by this act, or at any time afterward, the city council of such city shall cause plans and specifications for said improvement to be prepared and shall cause an estimate to be made of the cost and expense of making said improvement, including the cost of supervision and engineering, abstractor's fees, interest, and discounts and all other expenses incidental to said improvement, including an estimate of the amount of damages for property taken or damaged, which plans, specifications and estimates shall be approved by the city council.

Plans.

SEC. 5. When such plans and specifications shall have been prepared and such estimate of the cost and expense of making such improvement shall be made and adopted by the council as set out in the preceding section, and when an estimate has been made of the compensation to be paid for property damaged or taken, either before or after such compensation shall be ascertained in the said superior court as hereinbefore provided, the city council through the proper officer or officers, of such city, shall cause an assessment roll to be prepared containing a list of all of the property within such improvement district which it is proposed to assess for such improvement, together with the names of the owners, if known, and if unknown the property shall be assessed to an unknown owner, and opposite each description shall be set the amount assessed to such description. When so ordered by the council, the entire amount of compensation paid or to be paid for property damaged or taken, including all of the costs and expenses incidental to the condemnation proceedings and together with the entire cost and expense of making the improvement, may be assessed against the property within the district subject to assessment, but the council may order any portion of such costs paid out of the current or general expense fund of the city, in their discretion. The several parcels of land located within said improvement district to be assessed for such improvement shall be assessed according to and in proportion to surface area, one square foot of surface to be the unit of assessment: *Provided*, That where any parcel of land was partially filled by the owner prior to the initiation of the improvement an equitable deduction for such partial filling may be allowed. The cost and expense incidental to the filling of the streets, alleys and public places within such assessment district shall be borne by the private property within such district subject to assessment when so ordered by the council. When the assessment shall be payable in installments, the assessment roll when equalized, as hereinafter provided, shall show the number of installments and the amounts thereof. The assessment herein provided may be made payable in any num-

Assessment
roll.

Entire cost
assessed.

Installments.

ber of equal annual installments not exceeding ten in number.

SEC. 6. When such assessment roll shall be so prepared it shall be filed in the office of the city clerk and thereupon it shall be the duty of the city clerk to give notice by publication in at least three issues of the official paper that such roll is on file in his office and that at a date mentioned in said notice, which shall be at least twenty days after the date of the first publication thereof, the city council of such city will sit as a board of equalization to equalize said roll and to hear, consider and determine protests and objections against the same. At the time specified in said notice, the city council of said city shall sit as a board of equalization to equalize the said roll and they may adjourn the sitting from time to time until the equalization of such roll is completed. The city council shall have power as such board of equalization to hear, consider and determine objections and protests against any assessment levied under the provisions of this act and shall have power as such board to make such alterations and modifications in the assessment roll as justice and equity may require.

Hearing on
assessment.

SEC. 7. Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council to the superior court of the county in which such city may be situated. Such appeal shall be made by filing a written notice of appeal with the clerk of such city within ten days after the equalization of said assessment by the council, and said notice shall describe the property and the objections of such appellant to such assessment; and the appellant shall also file with the clerk of the superior court aforesaid within ten (10) days from the time of taking such appeal a copy of said notice, appeal, assessment and proceedings thereon, certified by the clerk of such city, together with a bond to such city conditioned to pay all costs that may be awarded against appellant in such sums not less than two hundred dollars and with such security as shall be approved by the clerk of such court, and the case shall be docketed by the clerk of such court in the

Appeals to
superior
court.

Judgment. name of the person taking such appeal as plaintiff and such city or town as defendant. Said cause shall then be at issue and shall be tried immediately by such court as in the case of equitable causes, except that no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment in so far as the same affects the property of the appellant, with respect to which the appeal was taken, from which judgment an appeal shall lie to the supreme court as in other causes.

Lien at-
taches, when.

Assessments,
how col-
lected.

SEC. 8. From and after the equalization of the roll, the several assessments in such roll contained shall become a lien upon the real estate described in such roll and shall remain such lien until paid, and such lien shall take precedence of all other liens against such property, except the lien of general taxes. The assessments herein provided for shall be collected by the same officers and enforced in the same manner as now provided by law or which may be hereafter enacted for the collection and enforcement of local assessments for street improvements in cities of the class herein described, and all of the provisions of existing laws and ordinances relative to the enforcement and collection of local assessments for street improvements, including the certification of delinquent assessments to the county treasurer and the issuance and foreclosure of certificates of delinquency, shall be applicable to the assessments made pursuant to this act.

Payments.

SEC. 9. When the improvement contemplated by this act shall be ordered to be made upon the immediate payment plan, the city council shall provide for the payment of the same by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district. When such improvement shall be ordered to be made upon the bond installment plan, the city council shall provide for the issuance of bonds against the improvement district as hereinafter provided.

SEC. 10. When it is desired to issue bonds against any such improvement district, the city council shall have full

authority to provide for the issuance of such bonds. Such bonds may be in such denominations as the city council may provide and shall bear such rate of interest as the city council may fix, not exceeding, however, eight per centum per annum; interest shall be paid annually and said bonds shall become due and payable at such time, not exceeding ten years from the date thereof, as may be fixed by the council and shall be payable out of said local assessment district funds. If so ordered by the council, such bonds may be issued in such a way that different numbers of said bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district shall mature together. The city council of any such city shall have authority for and on behalf of such city to guarantee the payment of the whole or any part of the bonds so issued against any such local improvement district, but such guarantees on the part of the city shall only be made by ordinance duly enacted, the passage of which ordinance shall require the vote of not less than nine councilmen and the approval of the mayor of cities of the second class, and six councilmen and approval of the mayor in cities of the third class. The city council shall have power to enact all ordinances necessary for the issuance of the bonds herein provided for, and to give full force and effect to this act.

SEC. 11. The city council of any such city shall have power to negotiate sufficient warrants or bonds against any such local improvement district at a price not less than ninety-five per cent. of their par value as may be necessary to raise sufficient money to pay any and all compensation which may be awarded for property damaged or taken in the judicial proceedings hereinbefore mentioned, including the costs of such proceedings; but in lieu of so doing, the city council shall have power to negotiate current or general expense fund warrants at par to raise funds for the payment of such compensation and expenses in the first instance, but in that event the current or general expense fund shall be reimbursed out of the first moneys collected in any such local assessment district or

Interest
on bonds.

Maturity of
bonds.

Guarantees.

Preliminary
expense.

realized from the negotiation or sale of local improvement warrants or bonds.

Interest on
assessments.

SEC. 12. The local assessments herein provided for shall bear interest at such rate as may be fixed by the council, not exceeding the rate of eight per centum per annum from and after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city: *Provided*, That such assessment shall bear interest at the rate of fifteen per cent. per annum from and after the date of the certification of such assessments to the county treasurer of the county, as in cases of local street assessments. Warrants drawn against any such local improvement district shall bear interest from the date of issuance at the rate of eight per centum per annum.

Change of
assessment.

SEC. 13. The contract for the making of any improvement as contemplated by this act may be let either before or after the making up of the equalization of the assessment roll, and special fund warrants, or bonds may be issued against said local improvement district, either before or after the equalization of the roll as in the judgment of the council may best subserve the public interest. When the assessment roll is made up and equalized, based in whole or in part upon an estimate of the cost of the improvement and it shall be later found that such estimate was too high, the excess shall be rebated *pro rata* to the property owners on the assessment roll, such rebates to be deducted from the last installment, or installments, when the assessment is upon the installment plan. When it is found that the estimated cost was too low and that the actual *bona fide* cost of the improvement is greater than the estimate, the city council, after due notice and a hearing, as in case of the original equalization of the roll, may add the required additional amount to the assessment roll to be apportioned among the several parcels of property upon the same rules and principles as if it had been originally included, except that such additional amount shall be added to the last installment of such assessment in case such assessment be upon the installment plan. The same notice shall be re-

quired for adding to the assessment roll in this manner as is required for the original equalization of the roll, and the property owner shall have the right of appeal.

SEC. 14. The city council in its discretion may provide in letting the contract for any such improvement, that the contractor shall accept special fund warrants or local improvement bonds against the local improvement district within which such improvement is to be made, in payment for the contract price of such work, and that such warrants or bonds may be issued to the contractor from time to time as the work progresses, or the city council may negotiate such special fund warrants or bonds against such local improvement district at not less than ninety-five cents in money for each dollar of warrants or bonds, and with the proceeds of such sales pay the contractor for such work and pay the other costs of such improvement.

Warrants or bonds in payment of contracts.

SEC. 15. Whenever moneys shall accumulate in any such improvement fund and is likely to lay idle awaiting the maturity of the bonds against the district, the city council, under proper safeguards, may invest such money temporarily, or may borrow the same temporarily, at a reasonable rate of interest, but when so invested or borrowed, the city shall be responsible and liable for the restoration to such fund of the moneys so invested or borrowed from any such fund, with interest thereon, whenever required for the redemption of bonds maturing against such district.

Funds may be invested.

SEC. 16. In case any assessment made under the provisions of this act should be found to be invalid for any cause or in case the same should be set aside for any reason in any judicial proceeding, then a re-assessment may be made and all laws now in force, or which may be hereafter enacted relative to the re-assessment of local assessments, for street or other improvements, shall, as far as practicable, be applicable hereto.

Re-assessment.

SEC. 17. This act shall not be construed as repealing or in any wise affecting any existing laws relative to the making of any such improvements, as are embraced within

This act concurrent.

this act, but this act shall be considered as concurrent with such existing laws.

Emergency.

SEC. 18. An emergency exists and this act shall take effect immediately.

Passed by the House February 19, 1909.

Passed by the Senate March 3, 1909.

Approved March 17, 1909.

CHAPTER 148.

[H. B. 353.]

RELATING TO THE SALARY OF SUPREME COURT REPORTER.

AN ACT amending section 225 of Ballinger's Annotated Codes and Statutes of Washington, relating to the salary of the reporter of the Supreme Court.

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

SECTION 1. That section 225 of Ballinger's Annotated Codes and Statutes of Washington, relating to the salary of the reporter of the Supreme Court, be amended to read as follows:

[Am'd. § 1,
ch. 30, p. 38,
L. '97, § 225
Bal., § 4347
Pierce.]

Salary.

Sec. 225. The annual salary of the reporter of the decisions of the Supreme Court shall be three thousand five hundred (\$3,500) dollars.

Passed by the House February 25, 1909.

Passed by the Senate March 6, 1909.

Approved March 17, 1909.

CHAPTER 149.

[S. B. 295.]

RELATING TO GAME FISH.

AN ACT to provide for the protection of game fish, limiting the catch, the size taken, and providing penalties for the violation thereof.

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

SECTION 1. It shall be unlawful for any person in the State of Washington in any of the counties lying east of