

the judge of the superior court of the district in which all of the interested counties are situated, if they be in one district, and have one common judge, and if not, by the judges sitting *en banc* of the judicial district in which each and any of the said counties may be situated. Said auditors shall make said apportionment within sixty days after the creation of any new county or the changing of boundaries of any old county, and if they do not, within said time, agree upon said apportionment, thereafter either or any county affected may petition the judge or judges of any court given jurisdiction by this act, and upon ten days' notice to any other county affected, the same may be brought on for hearing and summarily disposed of by said judge or judges, after allowing each side an opportunity to be heard.

SEC. 2. An emergency is declared to exist and this act shall take effect immediately after its passage and after its approval by the Governor. Emergency.

Passed by the Senate March 4, 1909.

Passed by the House March 6, 1909.

Approved March 10, 1909.

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## CHAPTER 80.

[S. B. 50.]

### RELATING TO EMINENT DOMAIN BY CITIES.

AN ACT to amend section 48 of an act of the legislature of the State of Washington entitled, "An act to enable cities of the first, second and third class and having a population of over fifteen hundred 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," approved March 13th, 1907, and declaring an emergency.

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

SECTION 1. Section 48 of an act of the legislature of the State of Washington entitled, "An act to enable cities

[Am'd. § 48,  
ch. 153, p.  
336, L. '07.]

of the first, second and third class and having a population of over fifteen hundred 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," approved March 13th, 1907, shall be and hereby is amended so as to read as follows: "Sec. 48. If any street, avenue or alley, or the right to use and control the same for purposes of public travel, shall belong to any city and such city shall establish a grade therefor, which grade requires any cut or fill, damaging abutting property, the damages to arise from the making of such grade may be ascertained in the manner provided in this act, but such city may provide that the compensation to be made for such damage, together with the accruing costs, shall be added to the cost of the labor and material necessary for the grading thereof, and shall be paid by assessment upon the property within the local assessment district defined by law or the charter or ordinances of such city in the same manner and to the same extent as other expenses of such improvement are assessed and collected. In such cases it shall not be necessary to procure the appointment of commissioners to take the other proceedings herein provided for making such assessments, but all the proceedings for the assessment and collection of such damages and costs, shall, if so ordained by such city, be governed by the charter provisions, law or ordinances in force in such city for the assessment and collection of the costs of such improvements upon property locally benefited thereby: *Provided, however,* That this section shall not apply to the original grading of such street, avenue or alley.

Damages to property included in cost of improvement.

Act applies to regrading.

Emergency.

SEC. 2. An emergency exists and this act shall take effect and be in force from and after its passage and approval.

Passed by the Senate March 9, 1909.

Passed by the House March 10, 1909.

Approved March 12, 1909.