

CHAPTER 130.

[S. S. B. 149.]

DIKING AND DRAINAGE SYSTEMS: CONSTRUCTION,
MAINTENANCE AND CONSOLIDATION.

AN ACT relating to the improvement of lands and other property by diking and drainage and the establishing and consolidation of improvement districts for such purpose; providing for the construction, maintenance and extension of diking and drainage systems; the method of apportioning, assessing and re-assessing the costs thereof against lands and other property benefited thereby, and the collection of such assessments; providing for the disposal of waters developed by drainage systems; providing penalties for the damaging of diking and drainage improvements; and amending sections 4226-1, 4226-2, 4226-3, 4226-4, 4226-6, 4226-7, 4226-8, 4226-9, 4226-10, 4226-13, 4226-16, 4226-17, 4226-18, 4226-19, 4226-20, 4226-22, 4226-23, 4226-24, 4226-25, 4226-26, 4226-30, 4226-31, 4226-32, 4226-33, 4226-34, 4226-35 and 4226-37 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. Whenever it shall appear to the board of county commissioners that the consolidation of two or more diking or drainage improvement districts established under the provisions of chapter 176 of the Laws of 1913 and acts amendatory thereof will result in economy of the maintenance of such districts, they shall by resolution declare their intention to order such consolidation, and shall fix a time and place for hearing objections to such consolidation. The time so fixed shall be not less than thirty nor more than sixty days from the date of adoption of such resolution, and the place fixed may be the county seat or other place more convenient to the districts which it is proposed to consolidate.

Consolidation of districts.

SEC. 2. Notice of the hearing shall be given by publication in the newspaper doing the county printing once a week for two successive weeks, the last publication to be not less than seven nor more than fourteen days prior to the date of said hearing. The notice shall be posted for the same period in three public places in each of the districts proposed to be consolidated.

Notice of hearing.

Order for consolidation.

SEC. 3. The board of county commissioners shall meet at the time and place fixed in such notice, and may adjourn such meeting from time to time and from place to place. If objections are offered to the proposed consolidation, they shall hear and consider the same and may refuse to proceed further with the consolidation, or may enter an order declaring any two or more of such districts consolidated, and that the territory included in such districts shall thereafter constitute and be known as "Consolidated Drainage or Diking Improvement District No. of county," giving to such consolidated district its consecutive number in the order of the establishment of such districts in the county.

Board of supervisors.

SEC. 4. Until the expiration of the terms of the elected supervisors having the shortest term to serve in each of the districts so consolidated, the two elected supervisors of each district, together with the county engineer, shall form the board of supervisors of such consolidated district.

At the annual election following the entry of the order of consolidation, one supervisor shall be elected in the consolidated district and shall serve for two years and until his successor is elected and qualified, and together with the supervisor of each district included in the consolidation whose term of office has not expired and the county engineer, shall constitute the board of supervisors of the consolidated district until the next annual election.

At the next annual election and at each succeeding annual election, one supervisor shall be elected in the consolidated district for a term of two years.

Rights and powers of consolidated district.

SEC. 5. From the time of the entry of the order of consolidation, such consolidated district and its board of supervisors shall have all the rights and powers of, and be subject to all laws applicable to a district established under the provisions of chapter 176 of the Laws of 1913 and acts amendatory thereof, and the several districts included in the consolidated district shall thereby be dissolved without any further proceedings. Notwithstanding

such consolidation and dissolution, none of the outstanding bonds, warrants or other indebtedness of any district included in the consolidated district shall be affected thereby; and all lands liable to be assessed to pay any of such bonds, warrants or other indebtedness shall remain liable to the same extent as if such consolidation had not been made; and any and all assessments theretofore levied or made against any such lands shall be and remain unimpaired, and shall be collected in the same manner as if no such consolidation had been made. The board of supervisors of the consolidated district shall have all the powers possessed at the time of the consolidation by the boards of supervisors of the several districts included in the consolidation to levy, assess and cause to be collected any and all assessments or charges against any of the lands within the several districts that may be necessary or required to provide for the payment of all the bonds, warrants and other indebtedness thereof. Until such assessments shall have been collected and all indebtedness of the district paid, separate funds shall be maintained for each district as were maintained prior to the consolidation.

Outstanding indebtedness prior to consolidation.

Levy and collection of assessments.

SEC. 6. Whenever two or more districts have been consolidated all the provisions of law applicable to such district prior to the consolidation shall apply to the consolidated district.

Governing statutes.

SEC. 7. The use of any waters developed by the drainage system of any drainage improvement district shall be subject to the control of the drainage improvement district and such district shall have the right to dispose of and contract for the use of such waters for irrigation or other uses, as hereinafter provided: *Provided*, That the waters developed by any existing drainage system, and the waters developed by any drainage system hereinafter [hereafter] constructed which shall remain undisposed of for three years after the completion of the improvement and the levy of the assessment to pay the cost thereof, shall not be subject to disposal by such district where such waters shall have been appropriated by any person at a

Use of waters developed.

Effect of appropriation by others.

point below the outlet of the drainage system of such district. The term "waters developed" as used in this act shall not be held to include surface waste waters from irrigation.

Contracts
for use or
sale of
water.

SEC. 8. The board of supervisors may enter into any contract for the use, sale or disposal of such waters that in their judgment shall be for the best interests of the district; but no such sale, contract or disposition shall be made except by the unanimous vote of the board. The district shall not guarantee nor warrant the amount or flow of, nor the title to, such waters; and no use, sale or disposition of such waters shall be lawful that will interfere with the efficiency of said drainage system.

Applications
for use of
water.

SEC. 9. Any person or corporation desiring to acquire and use the waters developed by any drainage system, may make application therefor in writing to the board of supervisors of the district, accompanying such application with a bond to be approved by the board, conditioned that the applicant will pay the costs of the investigation and hearing in case no disposal of said waters be made thereat. Successive applications and proceedings may be made and had as long as there is any water remaining undisposed of in said drainage system.

Notice of
hearings.

SEC. 10. When any such application shall be filed, the board of supervisors of the district shall cause to be published in the county official paper, once a week for three successive weeks prior to the date of the hearing hereinafter referred to, a notice fixing the time and place within the district when the board will hear and consider such applications. All applications shall be in writing and contain a statement of the proposed use to be made of the water, specifying the time, place and manner of such proposed use; and in entering into any such contract, the board of supervisors of the district may require such security as they may deem reasonable for the proper construction and installation of works of diversion and for the use of said water by the party proposing to use the same.

SEC. 11. Every person who shall wilfully damage or interfere with the operation of any dikes, drains, ditches or other improvements of any diking or drainage improvement district shall be guilty of a misdemeanor.

Penalty for wilful injury to improvements.

SEC. 12. That section 4226-1 of Rem. & Bal. Code be amended to read as follows:

Section 4226-1. Whenever one or more persons whose land will be benefited thereby shall desire to have improvements constructed for the drainage or protection from overflow, or both, of any continuous body of lands situated in the same county, proceedings for the construction of such improvements may be had as provided in this act.

SEC. 13. That section 4226-2 of Rem. & Bal. Code be amended to read as follows:

Section 4226-2. "System," "improvement," and "system of improvement," as used in this act, shall be held to include a dike, ditch, drain or water course, and any side, lateral, spur or branch dike, ditch, drain or water course, or other structure, necessary to secure the object of the improvement. Any number of dikes, ditches, drains or water courses, with their laterals, spurs, and branches, with separate outlets, may constitute one system for the protection or reclamation of the land included in any district. But no system shall be established or constructed unless sufficient outlet or outlets are provided for any drainage of such district. Such outlet or outlets may be either within or without the boundaries of the improvement district hereinafter provided for. Any natural water course may be improved in accordance with the provisions of this act.

Definition of terms used.

"Damages," as used in this act, shall be held to include the value of property taken and injury to property not taken, or either, as the case may be. "Property benefited" and "property damaged," as used in this act, shall be held to include land, platted or unplatted, whether subject to or exempt from general taxation, and roads other than public roads. "Public roads," as used in this act, shall be held to include state and county roads, streets,

alleys and other public places; and "other roads," as used in this act, shall be held to include railroads, street railroads, interurban railroads, logging roads, tramways and private roads, and the rights of way, roadbeds and tracks thereof.

"Public utilities," as used in this act, shall be held to include irrigation, power and other canals, flumes, conduits and ditches, telegraph, telephone and electric transmission and pole lines, and oil, gas and other pipe lines. "County engineer," as used in this act, shall be held to include any engineer specially employed by the board of county commissioners or the board of supervisors to report upon and prepare plans for or to superintend the construction of a system or the maintenance thereof under the provisions of this act. "Prosecuting attorney," as used in this act, shall be held to include any attorney specially employed by the board of county commissioners in connection with the carrying out of the provisions of this act to advise or carry on proceedings in court with reference to a system of improvement initiated and constructed under the provisions of this act.

SEC. 14. That section 4226-3 of Rem. & Bal. Code be amended to read as follows:

Section 4226-3. Application for any such improvement shall be made by petition to the board of county commissioners of the county in which such proposed system of improvement is located signed by one or more of the owners of property which will be benefited thereby. The petition shall be filed with the clerk of the board of county commissioners, and shall set forth the necessity for the improvement, and shall describe with reasonable certainty the location, route and termini thereof; and there shall be filed therewith a bond payable to the county, with good and sufficient surety, to be approved by the board of county commissioners, in a sum of not less than two hundred dollars (\$200.00), conditioned for the payment of all expenses which may have been incurred in the proceedings, in case the prayer of the petition be not granted or the

Petition for
improvement.

Bond to
secure
expenses of
proceedings.

petition be dismissed for any cause. If at any time it shall appear to the board of county commissioners that the bond filed with the petition is not sufficient in amount to cover the expenses which will be necessarily incurred in the proceedings, the board may order an additional bond in such an amount as it shall direct to be given.

SEC. 15. That section 4226-4 of Rem. & Bal. Code be amended to read as follows:

Section 4226-4. Upon the filing of the petition and the approval of the bond, the clerk of the board shall deliver a copy of said petition to the county engineer, who shall at once proceed to view the line and location of the proposed improvement and the property to be affected thereby and determine whether the improvement is in his opinion necessary or will be conducive to public health, convenience or welfare and whether in his opinion the location and route described are the best for the proposed improvement, what, if any, part of the proposed system of improvement mentioned in the petition should in his judgment be omitted, and what, if any additions should be added thereto or changes made therein, and shall report to and file his findings in writing with the board of county commissioners.

View and report by county engineer.

SEC. 16. That section 4226-6 of Rem. & Bal. Code be amended to read as follows:

Section 4226-6. If the report of the county engineer shall be in favor of said improvement, the board of county commissioners shall give the improvement district a number, being its serial number in the order of time of its formation among the improvement districts of the county formed under this act, beginning with the next number following the last serial number of any drainage or diking district organized and existing in said county, if any, and thereafter such district shall be designated as Drainage (or Diking) Improvement District Number of county, and the board shall cause to be entered on its journal an order directing the county engineer to go upon the lines described in the petition, or

Favorable report.

Survey,
plat, and
estimate of
cost.

as changed by him in his report, and survey, and take levels on the same and set a stake at every hundred feet, numbering the same consecutively, and note the intersection of property lines and boundaries, township, city and county lines, and road crossings, and make such other investigations as he may deem necessary, and make a report, profile and plat of the same; also to make an estimate of the cost of construction of such system itemized so as to be reasonably specific as to the various parts thereof: *Provided*, That such estimate of the cost shall be held to be preliminary only and shall not be binding as a limit on the amount that may be expended in constructing such system. The clerk of the board shall prepare and keep a special index in which he shall note all proceedings had and all papers filed in connection with such improvement district.

SEC. 17. That section 4226-7 of Rem. & Bal. Code be amended to read as follows:

Schedule of
property
damaged
and bene-
fited.

Section 4226-7. The board shall also by order entered on the journal, direct the county engineer to make and return a schedule and estimate of all property that will be damaged, or both damaged and benefited by the proposed improvement, and to estimate and report the total number of acres that will be benefited by the proposed improvement and to specify the manner in which the proposed improvement is to be made and the number, kind, location and dimensions of all water-ways, ditches, dikes, outlets, floodgates, and all other artificial appliances, bridges and crossings. Schedules of property to be damaged or damaged and benefited shall be arranged in parallel columns, with appropriate headings, and shall show the description of the property, and if land, give the legal subdivision, section, township and range, and number of acres; and if platted, the name of the plat and lot and block number; the name of the owner or owners or reputed owner or owners; the estimated gross damages that will be sustained by reason of the proposed improvement; the estimated gross benefits that will accrue; and the right-

hand column of the schedule shall be sufficiently wide for the signature of the owner, and shall bear the heading: "I, the undersigned owner of the property opposite which I have signed my name, accept and agree to the estimated amount of benefits and damages that will accrue to my property by reason of the proposed improvement."

SEC. 18. That section 4226-8 of Rem. & Bal. Code be amended to read as follows:

Section 4226-8. The plat provided for in section 4226-6 shall be drawn upon a scale sufficiently large to show all the meanderings of the proposed improvement, and shall distinctly show the boundaries of each lot or tract of land and the location of each public or other road and sewer system to be benefited thereby, and so far as known, the name of the owner of each lot or tract of land, and each public or other road and sewer system affected, the distance in feet through each tract or parcel of land crossed by the proposed improvement, together with such other matters as the county engineer shall deem material, and the profile shall show the surface, and grade lines and the gradient fixed. The county engineer shall make and file with his report an itemized bill of costs incurred in the proper discharge of his duties under this act and the preceding sections, and shall report the same to the clerk of the board of county commissioners within ten days after the completion of the survey.

Plats and profile to show details.

Engineer's bill of costs.

SEC. 19. That section 4226-9 of Rem. & Bal. Code be amended to read as follows:

Section 4226-9. Upon the filing of the report of the county engineer, the board of county commissioners shall immediately fix a date for a hearing on such report, and the clerk of the board shall give notice thereof by publication for at least once a week for three successive weeks, in the official newspaper of the county, and also, if so directed by the board, in one other newspaper to be designated by the board, published in or near the proposed improvement district and of general circulation therein. Said notice shall fix the time and place for said hearing

Hearing on engineer's report.

Notice.

and shall specify the territory to be included in the proposed improvement district, both by boundaries and also by sections or fractions thereof. Such notice shall also designate with reasonable certainty the location, route and termini of the proposed improvement, and shall state that the plat, report and schedule on file in the office of the board of county commissioners show the property to be taken or damaged, and the amount of damages proposed to be allowed therefor. The last publication of such notice shall be not less than seven nor more than fourteen days before the date of said hearing. Said hearing, and also the hearing hereinafter provided, for fixing the apportionment of the cost of said improvement, may either or both of them be held at a place other than the county seat, and more convenient to the lands affected, if the board of county commissioners shall so order. The county engineer shall attend and have at such hearing his plats, plans, reports and schedules in relation to the proposed improvement, and the clerk of the board of county commissioners shall also attend and have at such hearing all petitions, claims, objections and other papers and documents relating to said improvement on file in his office.

Place of hearing.

SEC. 20. That section 4226-10 of Rem. & Bal. Code be amended to read as follows:

Section 4226-10. On the date set for said hearing the board of county commissioners shall meet at the place designated in the notice, and if it appear that due notice of such hearing has been given, shall proceed with the hearing on the report of the county engineer, and any objections thereto, and may adjourn said hearing from time to time and from place to place. At said hearing the board shall hear all pertinent evidence, including any evidence offered concerning the probable cost of the system and the probable benefits to accrue therefrom, and may change, add to or modify the plans for such system of improvement and the boundaries of the improvement district, and change the estimate of damages and benefits in any case, and may review, change and modify any of

Hearing.

Change of plans and estimates.

the findings and estimates of the county engineer, and may, in its discretion, employ another engineer to make separate findings on any or all of the matters hereinbefore required to be included in the report of the county engineer, and may adjourn said hearing and await such report; or may discontinue proceedings in regard to the proposed improvement, at the cost of the petitioners therefor, if the board shall determine that the construction of the proposed improvement is not warranted by the benefits to be derived therefrom. In case the board shall determine to enlarge the boundaries of the district, a date shall be fixed for a new hearing and notice therefor shall be given and such hearing shall be held as provided for the hearing on the report of the county engineer. In case any change in the plans of the proposed improvement is made at said hearing, and such change will cause additional damage to any property, or will damage any property not damaged under the original plans, the county engineer shall prepare and file a schedule, showing the estimated damages and benefits under such changed plans, and notice of the filing of such schedule shall be served upon the owners of the properties affected, and settlements made as hereinafter provided. The board of county commissioners may at said meeting appoint the board of appraisers provided for in section 4226-25.

Enlarge-
ment of
proposed
district.

Appoint-
ment of
appraisers.

SEC. 21. That section 4226-13 of Rem. & Bal. Code be amended to read as follows:

Section 4226-13. For the purpose of taking or damaging property for the purposes of this act, counties shall have and exercise the power of eminent domain in behalf of the proposed improvement district, and the mode of procedure therefor shall be as provided by law for the condemnation of lands by counties for public highways: *Provided*, That the county, at its option, pursuant to resolution to that end duly passed by the board of county commissioners, may unite in a single action, proceedings for the acquisition and condemnation of different tracts of land required for rights of way which are held by separate

Power of
eminent
domain.

Single action
against sep-
arate owners.

owners. The court may, on motion of any party, consolidate into a single action separate suits for the condemnation of different tracts of land held by separate owners whenever from motives of economy or the expediting of business it appears advisable to do so. In such cases the jury shall render separate verdicts for the different tracts of land.

SEC. 22. That section 4226-16 of Rem. & Bal. Code be amended to read as follows:

Section 4226-16. When the board of county commissioners shall have finally determined and fixed the route and plans for the proposed system of improvement and the boundaries of the improvement district, and when it shall appear that the damages for property to be taken or damaged have been settled in the manner hereinabove provided, or when it shall appear that such damages have been settled as to a particular portion of the proposed improvement, and that construction of such portion of such proposed improvement is feasible, thereupon such system of improvement or such portion thereof, as the case may be, shall be constructed in the manner hereinafter provided.

SEC. 23. That section 4226-17 of Rem. & Bal. Code be amended to read as follows:

Section 4226-17. The cost of improvement shall be paid by assessment upon the property benefited, said assessment to be levied and apportioned as hereinafter prescribed. At the hearing provided for in section 4226-10, the board of county commissioners shall determine in what manner and within how many years said assessment shall be paid, and shall also at such hearing determine whether the evidence of indebtedness for the cost of said improvement shall be bonds or warrants. If bonds, it shall fix either ten or fifteen annual installments for the payment of said assessment. If warrants, it shall fix not to exceed five annual installments for the payment of said assessment. In case bonds are to be issued and the board shall determine on ten annual installments for the payment of

Assessment
of property
benefited.

Payment in
bonds or
warrants.

Instalments.

said assessment, the installments thereof shall become due and collectible as follows:

For the 1st year.....	5%
For the 2nd year.....	5%
For the 3rd year.....	5%
For the 4th year.....	10%
For the 5th year.....	10%
For the 6th year.....	10%
For the 7th year.....	10%
For the 8th year.....	15%
For the 9th year.....	15%
For the 10th year.....	15%

In case bonds are to be issued and the board shall determine on fifteen annual installments for the payment of said assessment, the installments thereof shall become due and collectible as follows:

For the 1st year.....	3%
For the 2nd year.....	3%
For the 3rd year.....	3%
For the 4th year.....	3%
For the 5th year.....	3%
For the 6th year.....	5%
For the 7th year.....	5%
For the 8th year.....	5%
For each succeeding year.....	10%

In case warrants are to be issued, no annual installment shall be less than one-tenth nor more than one-half of the entire assessment.

In the event that the entire assessment upon any single tract or parcel of land, or contiguous tracts or groups of tracts belonging to the same owner is twenty-five dollars (\$25.00) or less, such assessment shall become due and payable at the time of the first general taxes next after the date of the levy shall become due, and the terms of this act relating to the payment of assessments in installments shall not apply to such assessments. The bonds shall be of such denomination, not less than one hundred dollars (\$100.00) nor more than five hundred

Payment of assessments less than \$25.

Bond issues.

dollars (\$500.00), as the county commissioners shall by resolution prescribe. The interest thereon shall be payable semi-annually and the bonds shall be numbered consecutively, be coupon in form, and shall recite that they are secured to be paid by assessments upon the property of drainage (or diking) improvement district number . . . of county, and that they are not a general obligation of such county. They shall be payable in their serial order, on any semi-annual coupon date, on the call of the treasurer whenever there shall be sufficient money in the bond redemption fund of the district against which they are issued, over and above that necessary for the payment of interest on all outstanding bonds, to pay the principal of one or more bonds at the next coupon date: *Provided*, That the proportionate amount of the entire issue of bonds called in the respective years shall not be in excess of the following bond redemption schedules:

Redemption
schedules.

First, in case the assessment is payable in ten annual installments:

For the 1st year	10%
For the 2nd year	10%
For the 3rd year	10%
For the 4th year	10%
For the 5th year	10%
For the 6th year	10%
For the 7th year	10%
For the 8th year	15%
For the 9th year	15%

Second, in case the assessment is payable in fifteen annual installments:

For the 1st year	10%
For the 2nd year	5%
For the 3rd year	5%
For the 4th year	5%
For the 5th year	5%
For the 6th year	5%
For the 7th year	5%
For the 8th year	5%

For the 9th year.....	10%
For the 10th year.....	10%
For the 11th year.....	10%
For the 12th year.....	10%
For the 13th year.....	10%
For the 14th year.....	5%

The treasurer shall give notice of such call by publication in the county official newspaper once each week for two consecutive weeks, the first publication of which notice shall be at least fifteen days prior to the next coupon date, stating that bonds No..... (giving their serial number or numbers) will be paid on the date the next interest coupons on said bonds shall become due, and interest upon such bonds shall thereupon cease upon such date. Each warrant and bond shall bear the date of its issuance and recite that it is payable on or before the first day of January of the third year after the last installment of the assessment upon which it is based shall become due. Each bond, shall state on its face that bonds of the district can not be called for payment at an earlier maturity than in accordance with the schedule therefor applicable thereto as herein provided, which schedule shall be printed on the face of the bonds. Each warrant and bond shall be signed by a majority of the board of county commissioners and attested by the county auditor under his seal, and each coupon shall have printed thereon a facsimile of the signature of such officers. Interest coupon No. 1 on such bonds shall be for the amount of interest due from the date of the issuance of said bonds to the 1st day of July in the year in which the first installment of the assessment becomes due and payable. The county treasurer shall register said bonds and warrants before the issuance thereof in a book kept for that purpose, and shall certify on each thereof under his seal that it has been so registered, and that the signatures thereon are the genuine signatures of said county commissioners and the county auditor, and that the seal attached is the seal of the county auditor. Neither bonds nor warrants shall be

Call for bonds.

Registration of bonds and warrants.

issued until after the expiration of the thirty days from the first publication of the notice given by the treasurer as provided in section 4226-30 and shall not be issued in any amount in excess of that portion of the assessment remaining unpaid after the expiration of such thirty-day period.

SEC. 24. That section 4226-18 of Rem. & Bal. Code be amended to read as follows:

Sale of
bonds and
warrants.

Section 4226-18. The board of county commissioners shall offer for sale the warrants and bonds or any part thereof, issued under the provisions of this act, and pay the proceeds thereof into the construction fund. Such sale shall be at public offering and under such rules and regulations and on such notice as they may determine, and the commissioners may accept the highest and best bid for such bonds or warrants received at such offering, or may reject any or all bids received. Any warrants or bonds issued under the provisions of this act or such portions thereof as shall remain unsold or undisposed of may be issued to the contractor constructing the improvement or any part thereof in payment therefor, and in case the improvement or any part thereof shall be constructed by the board of supervisors as in this act provided, may be issued in payment for work, labor and material performed and furnished therefor.

SEC. 25. That section 4226-19 of Rem. & Bal. Code be amended to read as follows:

Elections.

Section 4226-19. Upon the determination by the board of county commissioners to proceed with the work of construction, said board shall order an election to be held in some place within the district to be designated by the board, and shall appoint an election board to consist of one inspector and two judges, who shall qualify in like manner and receive like compensation as election officers at general elections. Notice of said election shall be given by the clerk of the board of county commissioners by publication once a week for two consecutive weeks in a newspaper to be designated by the board and of general cir-

Notice.

ulation in the district, the last of which publications shall be not less than seven nor more than fourteen days prior to the date of said election, and such notice shall also be posted by the sheriff of the county not less than fourteen days prior to the date of said election, in three of the most public places in the district. At such election the polls shall be open from one o'clock p. m. until seven o'clock p. m. All electors of the state owning land in the district shall be entitled to vote at said election and at the annual elections hereinafter provided for. At such election the election officers may require any person offering to vote to take an oath that he is qualified to vote as in this act provided. An officer or agent of any corporation, organized under the laws of this state owning land in the district, duly authorized thereto in writing, may, upon filing with the election officers such written instrument of authority, cast a vote on behalf of such corporation.

SEC. 26. That section 4226-20 or [of] Rem. & Bal. Code be amended to read as follows:

Section 4226-20. At the election provided for in the preceding section, two qualified electors of the county owning land in the district shall be elected, who, with the county engineer, shall constitute the first board of supervisors of said district. The board of supervisors shall have charge of the construction and maintenance of the system of improvement of the district, subject to the limitations hereinafter set forth, and may employ a superintendent of construction and maintenance, who may be one of the two elected supervisors. The elected supervisors may themselves labor or be employed upon the work of construction or maintenance, receiving for such labor the same compensation as other labor of like character shall receive. The engineer shall receive compensation for his services as supervisor in the maintenance of the system at the per diem rate allowed him for other work; and if he be a salaried officer such compensation shall be a charge against the district in favor of the engineer's office. The supervisor receiving the highest number of votes shall hold of-

Board of supervisors.

Compensation of engineer.

Election and terms of supervisors.

office until one year after the first annual election of the district and until his successor is elected and qualified, and the other supervisor shall hold office until his successor is elected at the first annual election and shall have qualified. Each elected supervisor shall qualify by taking the usual oath of office of county and precinct officers, and by giving a bond in an amount to be fixed and with surety to be approved by the board of county commissioners. The cost of furnishing such bond shall constitute a part of the cost of maintenance of such district. On the second Tuesday of December in the year following the election hereinabove provided for and annually thereafter, there shall be elected one supervisor of such district, who shall hold office for the term of two years and until his successor is elected and qualified. Such annual election shall be held upon the same notice and under the same regulations and in the same manner as the first election hereinabove provided for: *Provided*, That in any districts established under this act, or heretofore established under chapter LXVI of the Laws of 1901, not including any city or town and not more than two thousand acres in extent including all additions thereto, notice of annual elections of supervisors shall be given by posting only. In case a vacancy occur in said board from any cause, such vacancy shall be filled by appointment by the board of county commissioners of some qualified elector owning land in the district.

County engineer sole supervisor in minor districts.

Whenever any district organized under the provisions of this act contains not more than five hundred acres, or whenever a petition shall be presented to the county commissioners signed by the owners of fifty per cent of the acreage of such district praying for such action, the county engineer shall act as supervisor of the district and thereafter no board of supervisors shall be elected for such district; and in such case the allowance of all claims against the district shall be by the county commissioners.

SEC. 27. That section 4226-22 of Rem. & Bal. Code be amended to read as follows:

Construction of drainage systems.

Section 4226-22. The said board of supervisors shall, immediately upon their election and qualification, begin the

construction of such system of improvement and shall proceed with the construction thereof in accordance with the plans adopted therefor. In the construction of any system of drainage, construction shall be begun at the outlet or outlets thereof and at such other points as may be deemed advisable from time to time. In the construction of any system of improvement the board of supervisors with the approval of the board of county commissioners may modify, curtail, enlarge or add to the original plans wherever the same may be found necessary or advisable in the course of actual construction. But such changes shall not in the aggregate increase the estimated cost of the entire system by more than one-fifth, and all additional or different rights of way required shall be obtained as hereinbefore prescribed. The board of county commissioners may in its discretion let the construction of said system or any portion thereof by contract, in the manner provided for letting contracts for the construction of county roads and bridges. The board of county commissioners may, upon such terms as may be agreed upon by the United States acting in pursuance of the National Reclamation Act approved June 17, 1902 (32 Statutes at Large 388), and the acts amendatory thereof and supplemental thereto, or in pursuance to any other act of congress appropriate to the purpose, contract for the construction of the system of improvement or any part thereof, by the United States, or in co-operation with the United States therein. In such case, no bond shall be required, and the work shall be done under the supervision and control of the proper officers of the United States.

Modifica-
tion of plans.

Co-opera-
tion with
United
States.

Unless the work of construction is let by contract as hereinbefore provided, or for such part of such work as is not covered by contract, the board of supervisors shall employ such number of men as shall be necessary to successfully carry on the work of such construction, and shall give preference in such employment to persons owning land to be benefited by the improvement.

SEC. 28. That section 4226-23 of Rem. & Bal. Code be amended to read as follows:

Section 4226-23. The compensation of the board of supervisors, superintendent of construction, the board of appraisers hereinafter provided for, and any special engineer, attorney or agent employed by the board of county commissioners in connection with the improvement, the maximum wages to be paid, and the maximum price of materials to be used, shall be fixed by the board of county commissioners. Each county commissioner, except in counties of the first class, shall receive pay at the rate of four dollars (\$4.00) per day for the number of days he is engaged in the performance of any duty under this act, which sum shall be additional to his salary in case he receive an annual salary; and none of the statutory provisions limiting the number of days that a county commissioner shall draw pay for or limiting the number of sessions for attendance upon which he shall be entitled to mileage shall apply to any proceedings under this act. All officers and members of boards performing duties under this act shall receive in addition to their fees or salaries their actual necessary expenses incurred in the performance of their duties hereinunder. All costs of construction or maintenance done under the direction of the board of supervisors shall be paid upon vouchers or payrolls verified by two of the said supervisors. All costs of construction and all other expenses, fees and charges on account of such improvement shall be paid by warrants drawn by the county auditor upon the county treasurer upon the proper fund, and shall draw interest at such rate not to exceed eight per cent per annum as the board of county commissioners shall fix, until paid or called by the county treasurer as warrants of the county are called.

If at the hearing provided for in section 4226-10 the county commissioners shall determine that bonds shall be issued to pay the costs of the improvement or warrants sold to procure funds with which to pay such cost, as therein provided, temporary warrants may be issued for

Compensation.

Payment by warrants.

Issuance of temporary warrants.

any part or all of such costs, expenses, fees, and charges, and shall be paid in cash upon the issuance and sale of such bonds, or shall be exchanged for an equal amount par value of such bonds. All such temporary warrants shall recite that they are temporary warrants and that they draw interest until called to be paid in cash or to be exchanged for bonds. All warrants issued under the provisions of this act and sold by the commissioners, or issued to any contractor and by him sold or hypothecated for a valuable consideration, shall be claims and liens against the fund against which they are drawn, prior and superior to any right, lien or claim of any surety upon any bond or bonds given to secure the performance of the contract or to secure the payment of persons who have performed work thereon, furnished materials therefor or provisions and supplies for the carrying on of the work.

Priority of
warrants
over other
claims.

SEC. 29. That section 4226-24 of Rem. & Bal. Code be amended to read as follows:

Section 4226-24. Whenever in the progress of the construction of the system of improvement it shall become necessary to construct a portion of such system across any public or other road or public utility, the board of supervisors, or in case the work is being done by contract the board of county commissioners, shall serve notice in writing upon the public officers, corporation or person having charge of, or controlling or owning such road or public utility, as the case may be, of the present necessity of such crossing, giving the location, kind, dimensions and requirement thereof, for the purpose of the system of improvement, and stating a reasonable time, to be fixed by the county engineer, within which plans for such crossing must be filed for approval in case the public officers, corporation or person controlling or owning such road or public utility desire to construct such crossing. As soon as convenient, within the time fixed in the notice, the public officers, corporation or person shall, if they desire to construct such crossing, prepare and submit to the county engineer for approval duplicate detailed plans and specifi-

Crossing
roads or
public
utilities.

cations for such crossing. Upon submission of such plans, the county engineer shall examine and may modify the same to meet the requirements of the system of improvement, and when such plans or modified plans are satisfactory to the county engineer he shall approve the same and return one thereof to the public officers, corporation or person submitting the same, and file the duplicate in his office, and shall notify such public officers, corporation or person of the time within which said crossing must be constructed. Upon the return of such approved plans, the public officers, corporation or person controlling such road or public utility shall, within the time fixed by the county engineer, construct such crossing in accordance with the approved plans, and shall thereafter maintain the same. In case such public officers, corporation or person controlling or owning such road or public utility shall fail to file plans for such crossing within the time prescribed in the notice, the board of supervisors or of county commissioners, as the case may be, shall proceed with the construction of such crossing in such manner as will cause no unnecessary injury to or interference with such road or public utility. The cost of construction and maintenance of only such crossings or such portion of such cost as would not have been necessary but for the construction of the system of improvement shall be a proper charge against the improvement district, and only so much of such cost as the board of county commissioners shall deem reasonable shall be allowed as a charge against the district in the case of crossings constructed by others than the district. The amount of costs of construction allowed as a charge against the district by the board of county commissioners shall be credited on the assessments against the property on which the crossing is constructed, and any excess over such assessment shall be paid out of the funds of the district.

Adjustment
of crossing
costs.

SEC. 30. That section 4226-25 of Rem. & Bal. Code be amended to read as follows:

Section 4226-25. When the improvement is fully completed and accepted by the county engineer, the clerk

Cost of im-
provement.

of the board shall compile and file with the board of county commissioners an itemized statement of the total cost of construction, including engineering and election expenses, the cost of publishing and posting notices, damages and costs allowed or awarded for property taken or damaged, including compensation of attorneys, including the costs of crossings constructed by the district and the cost of crossings constructed by others and allowed by the board of county commissioners, and including the sum paid or to be paid to the United States, and the discount, if any, on the bonds and warrants sold and including all other costs and expenses, including fees, per diem and necessary expenses of non-salaried officers incurred in connection with the improvement, together with interest on such costs and expenses from the time when incurred at the rate of interest borne by the warrants issued for the cost of construction. There shall also be included in said statement, in case the county engineer is a salaried officer, a statement of the services performed by him in connection with said improvement at a per diem of five dollars (\$5.00) per day and his necessary expenses, and a reasonable sum to be fixed by the board of county commissioners on account of the services rendered by the prosecuting attorney. Upon the filing of such statement of costs and expenses the board of county commissioners shall revise and correct the same if necessary and add thereto a reasonable sum which shall be not less than five per cent nor more than ten per cent of the total thereof in drainage improvement districts, and not less than ten per cent nor more than fifteen per cent of the total thereof in diking improvement districts, to cover possible errors in the statement or the apportionment hereinafter provided for, and the cost of such apportionment and other subsequent expenses, and interest on the costs of construction from the date of the statement until fifty days after the filing of the assessment roll with the treasurer; and unless the same have been previously appointed, shall appoint a board of appraisers consisting of the county engineer and two other

Apportionment.

competent persons, to apportion the grand total as contained in said statement as hereinafter provided. Each member of said board of appraisers shall take, subscribe and file with the board of county commissioners an oath to faithfully and impartially perform his duties to the best of his ability in making said apportionment, and said board of appraisers shall proceed to carefully examine the system and the public and private property within the district and fairly, justly and equitably apportion the grand total cost of the improvement against the property and the county or counties, cities and towns within the district, in proportion to the benefits accruing thereto.

SEC. 31. That section 4226-26 of Rem. & Bal. Code be amended to read as follows:

Apportionment against cities, towns and counties benefited.

Section 4226-26. Whenever any system of improvement constructed under the provisions of this act will drain, protect or otherwise improve the whole or any part of any public road, roadbed or track thereof, or where any such system of improvement will furnish an outlet for or facilitate the construction or maintenance of any sewer system in any city or town, there shall be apportioned against the county in which any such state or county road outside of any incorporated city or town is located or against the city or town in which any such public road is located, or against any such other road or part thereof so drained, protected or otherwise improved, or against the city or town for which an outlet for sewage will be furnished or wherein the construction or maintenance of a sewer system will be facilitated, the proper amount of the total sum to be apportioned. The board of county commissioners may pay such portion as they deem proper of the amount assessed against the county on account of the drainage, protection or improvement of the roads, out of the funds of the road district in which such drainage, protection or improvement is made.

SEC. 32. That section 4226-30 of Rem. & Bal. Code be amended to read as follows:

Hearing on apportionment.

Section 4226-30. Upon the filing of the schedule of apportionment, the board of county commissioners shall

fix the time and place for a hearing thereon which time shall be not more than 60 days from the date of the filing thereof and notice of such hearing shall be given in the manner provided for giving notice of hearing in section 4226-9. Said notice shall fix the time and place of hearing on said roll, and shall state that the schedule of apportionment showing the amount of the cost of the improvement apportioned to each county, city, town and piece of property benefited by the improvement is on file in the office of the board of county commissioners and open to public inspection, and shall notify all persons who may desire to object thereto that they may make such objections in writing and file the same with the clerk of the board of county commissioners at or prior to the date fixed for such hearing; and that at the time and place fixed and at such other times and places as the hearing may be continued to, the board of county commissioners will sit as a board of equalization for the purpose of considering such schedule and at such hearing or hearings will also consider any objections made thereto, or any part thereof, and will correct, revise, raise, lower, change or modify such schedule, or any part thereof, or set aside such schedule and order that such apportionment be made *de novo* as to such body shall appear just and equitable, and that at said hearing the board will confirm said schedule as finally approved by them and will levy an assessment against the property described thereon for the amounts as fixed by them. The board of county commissioners shall serve by mail, at least ten days before such hearing, upon the commissioner of public lands of the State of Washington a like notice, in duplicate, showing the amount of the cost of the improvements apportioned against all state, school, granted, or other lands owned by the State of Washington in such district. Upon receipt of such notice the commissioner of public lands shall endorse thereon a statement either that he elects to accept or that he elects to contest such apportionment, and shall return the same, so endorsed, to the board of county commissioners. At or

Notice.

Approval or
modification
of appor-
tionment.

prior to such hearing any person interested may file with the clerk of the board written objections to any item or items of said apportionment. At such hearing, which may be adjourned from time to time and from place to place, until finally completed, the board of county commissioners shall carefully examine and consider said schedule and any objections filed or made thereto and shall correct, revise, raise, lower, change or modify such schedule or any part thereof, or strike therefrom any property not benefited, or set aside such schedule and order that such apportionment be made *de novo*, as to such body shall appear equitable and just. The board shall cause the clerk of the board to enter on such schedule all such additions, cancellations, changes, modifications and reapportionments, all credits for damages allowed or awarded to the owner of any piece of property benefited, but not paid, as provided in section 4226-14; also a credit in favor of the county on any apportionment against the county, of all sums paid on account of said improvement, as provided in section 4226-15; and all sums allowed the county on account of services rendered by the county engineer or prosecuting attorney, as provided in section 4226-25; and all credits allowed to property owners constructing crossings as provided in section 4226-24. When the board of county commissioners shall have finally determined that the apportionment as filed or as changed and modified by the board is a fair, just and equitable apportionment, and that the proper credits have been entered thereon, the members of the board approving the same shall sign the schedule and cause the clerk of the board to attest their signature under his seal, and shall enter an order on the journal approving the final apportionment and all proceedings leading thereto and in connection therewith, and shall levy the amounts so apportioned against the property benefited, and the determination by the board of county commissioners in fixing and approving such apportionment and making such levy shall be final and conclusive.

Assessment
roll.

The board of county commissioners shall also at said hearing, levy, in the manner hereinafter provided for the

the levy of maintenance assessments, such assessment as they shall deem necessary to provide funds for the maintenance of the system of improvement until the first annual assessment for maintenance shall fall due. Upon the approval of said roll the county auditor shall immediately prepare a completed assessment roll which shall contain, first, a map of the district showing each separate description of property assessed; second, an index of the schedule of apportionments; third, an index of the record of the proceedings had in connection with the improvement; fourth, a copy of the resolution of the board of county commissioners fixing the method of payment of assessments; fifth, the warrant of the auditor authorizing the county treasurer to collect assessments; and sixth, the approved schedule of apportionments of assessments; and shall charge the county treasurer with the total amount of the assessment and turn the roll over to the treasurer, for collection in accordance with the resolution of the board of county commissioners fixing the method of payment of assessments. As soon as the assessment roll has been turned over to the treasurer for collection, he shall publish a notice in the official newspaper of the county for once a week for at least two consecutive weeks, that the said roll is in his hands for collection and that any assessment thereon or any portion of any such assessment may be paid at any time on or before a date stated in such notice, which date shall be thirty days after the date of the first publication, without interest, and the treasurer shall accept such payment as in said notice provided. Upon the expiration of such thirty-day period the county treasurer shall certify to the county auditor the total amount of assessments so collected by him and the total amount of assessments remaining unpaid upon said roll. After the expiration of said thirty-day period, payment of assessments in full, with interest to the next coupon date which is more than thirty days from the date of such payment, may be made at any time: *Provided*, That the aggregate amount of such advance payments in any year, to-

gether with the total amount of the assessments due at the beginning of said year, shall not exceed the total amount of the bonds which may be called in that year according to the applicable bond redemption schedule. The treasurer shall accept payments of assessments in advance, in the order tendered, until the limit herein set forth has been reached.

Interest rates.

The assessments contained in the assessment roll shall bear interest from the expiration of the thirty-day period at the rate of eight per cent. per annum and interest upon the entire assessment then unpaid shall be due and payable at the time each of said installments becomes due and payable as a part thereof: *Provided*, That if the bonds or warrants be sold at a lower rate of interest than eight per cent. then said assessments shall bear interest at the same rate borne by such bonds or warrants.

Lien of assessments.

The assessments contained in said assessment roll shall be liens upon the property assessed, such lien shall be of equal rank with other liens assessed against the property for local improvements and paramount to all other liens except the lien of general taxes, and shall relate back to and take effect as of the date when the board of county commissioners determined to proceed with the construction of the improvement as provided in section 4226-16.

SEC. 33. That section 4226-31 of Rem. & Bal. Code be amended to read as follows:

Section 4226-31. There shall be established in the county treasury of any county in which any drainage or diking improvement is established under the provisions of this act, appropriate funds as follows:

Construction fund.

(1) The construction fund, into which shall be paid the proceeds of all bonds or warrants sold and the proceeds of all assessments paid prior to the sale of bonds or warrants. In case no bonds have been issued or warrants have been sold, the proceeds of all assessments levied to pay the cost of construction shall be paid into such fund. All warrants, including temporary warrants, issued in payment of cost of construction shall be paid out of such fund.

(2) A fund for the redemption of all bonds issued or warrants sold, to be known as the redemption fund, into which shall be paid all proceeds derived from assessments levied to pay cost of construction which shall not have been paid prior to the sale of bonds or warrants, in case bonds have been issued or warrants sold, and also all moneys, if any, remaining in the construction fund after the payment of all warrants drawn against it as above provided. The redemption fund shall be applied, first, to the payment of the interest due upon all such outstanding bonds issued or warrants sold and, second, to the payment of the principal thereof. After the payment of the principal and interest of all such bonds or warrants, the balance, if any, remaining in such fund shall be applied to the payment of any warrants outstanding, including temporary warrants, which may have been issued in payment of cost of construction which for any reason may remain unpaid. Any balance, if any, thereafter remaining shall be paid into the maintenance fund.

Redemption
fund.

(3) The maintenance fund, into which shall be paid the proceeds of all assessments for maintenance, and all other funds received by the district which are not required by the provisions of this act to be paid into the construction fund or the redemption fund.

Maintenance
fund.

The respective installments of assessments for construction or maintenance of improvements made under the provisions of this act, shall be collected in the same manner and shall become delinquent at the same time as general taxes, and shall bear interest after delinquency at the rate of ten per cent per annum, and the lien thereof shall be enforced by foreclosure and sale of the property assessed, as in the case of general taxes. The purchaser, upon the foreclosure of any certificate of delinquency for any assessment or installment thereof, shall acquire title to such property subject to the installments of the assessment not yet due, and the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state.

Collection
and fore-
closure of
assessments.

Payment
by holder of
delinquent
tax certifi-
cate.

The holder of any certificate of delinquency for general taxes may, before commencing any action to foreclose the lien of such certificate, pay in full all drainage or diking improvement district assessments or installments thereof outstanding against the whole or any portion of the property included in such certificate of delinquency, or, if he elect to foreclose such certificate without paying such assessments in full, the purchaser at such foreclosure sale shall acquire title to such property subject to all drainage or diking improvement district assessments a lien thereon, in which case the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state. If such holder shall pay such drainage or diking improvement district assessments, he shall be entitled to ten per cent interest per annum on the amount of the delinquent assessments or delinquent installments thereof so paid, from date of payment.

Application
of proceeds of
tax sales.

In any case where any property shall be struck off to or bid in by the county at any sale for general taxes, and such property shall subsequently be sold by the county, the proceeds of such sale shall first be applied to discharge in full the lien or liens for general taxes for which the same was sold, and the remainder, or such portion thereof as may be necessary, shall be paid to the district to discharge all drainage or diking improvement district assessment liens upon such property, and the surplus, if any, shall be distributed among the proper county funds.

Reassess-
ments.

Whenever any improvement, any extension or betterment thereof shall have been constructed in whole or in part, either heretofore in a district established or attempted to be established under and by virtue of chapter 66 of the Laws of 1901, or in a district heretofore or hereafter established or attempted to be established under this act, and the assessment therefor or any part thereof shall be invalid by reason of any omission, irregularity or defect in any proceeding whatever, a reassessment shall be made upon the property benefited by the improvement to provide a fund for the payment of the costs thereof,

and any bonds or warrants issued therefor in the following manner:

The board of county commissioners shall by order cause the clerk of the board to compile and file with the board an itemized statement of the total cost of the improvement in the manner prescribed by section 4226-25. Upon the filing of such statement the same proceedings shall be had assessing the costs of said improvement against the lands benefited thereby and the counties, cities and towns within the district, as are prescribed by section 4226-25 and subsequent sections of this act. In case no bonds have been issued or warrants sold to pay the costs of said improvement, the same may be issued and sold and disposed of as hereinbefore provided. In case an assessment for such improvement shall have been theretofore made or attempted, and any payment has been made thereon, proper credit for the amount of such payment shall be made upon the reassessment.

Credits for
prior
payments.

If upon the foreclosure of the assessment upon any property the same shall not sell for enough to pay the assessment against it, or if any property assessed was not subject to assessment, or if any assessment made shall have been eliminated by foreclosure of a tax lien or made void in any other manner, the board of county commissioners shall cause a supplemental assessment to be made on the property benefited by the improvement and against the county, cities and towns chargeable therewith in the manner provided for the original assessment, to cover the deficiency so caused in the original assessment.

Supplemental
assessment
for
deficiencies.

If by inadvertence or for any cause the assessment levied shall be found to be insufficient to meet the entire cost of construction, a supplemental assessment shall be made by the board of county commissioners upon the lands of the district in the same proportion as the original assessment is levied, same being spread over not to exceed three years as the commissioners may determine.

Correction
of errors.

Duplicate assessments or other errors that may by inadvertence be found to have been incorporated in the assessment roll may be corrected by order of the county commissioners upon same being certified to them by the treasurer and the engineer.

SEC. 34. That section 4226-32 of Rem. & Bal. Code be amended to read as follows:

Annual
maintenance
estimate.

Section 4226-32. On or before the first Monday in September in each year the board of supervisors of each district organized under the provisions of this act shall make and file with the board of county commissioners of the county containing such district, a statement and estimate in writing of the amount required for maintenance of the system of improvement of said district for the ensuing fiscal year, and the board of county commissioners shall, on or before the first Monday in October next ensuing, levy an assessment for the amount of said estimate, or such amount as it shall deem advisable, upon the property within the district and against the county, cities and towns chargeable therewith in the same proportion as the assessment to pay the original cost of construction of said system of improvement was levied. Such levy shall be certified by the county auditor to the county treasurer, who shall extend the same upon the assessment roll. The maintenance assessments on all tracts of land of not more than one-half acre in area shall accumulate from year to year and every fifth year such accumulated levy shall be extended on the rolls and collected. Upon petition filed by two or more assessed property owners of a district the county commissioners may, in their discretion, hold a hearing at the county seat for the purpose of reapportioning the maintenance charges in such district; to be held at the time of the equalization of the real property assessment in the even numbered calendar years. Preliminary to such hearing the county commissioners shall appoint a board of three appraisers, of whom the county engineer shall be one, who shall qualify and proceed as the board of appraisers appointed to apportion the original cost of

Levy of
assessment.

Hearing.

the system, and shall report to and file with the board of county commissioners their recommendations in such matter not less than twenty days prior to the date of such hearing. Notice of the filing of such report and that such hearing will be held shall be given by publication in the official county newspaper and in such other newspaper published in or near such district as the county commissioners may in their discretion direct in two successive publications, the last of which shall not be less than seven or more than fourteen days prior to the date of said hearing. And at such hearing the commissioners may make such change in the basis of the apportionment of the levies for the maintenance of such system of improvement as may seem just and equitable. In maintaining the system of improvement of their district the board of supervisors may, with the approval of the board of county commissioners, make expenditures in excess of the annual maintenance fund herein provided for, which excess amount shall in such event be included in the maintenance levy for the succeeding year: *Provided*, That when, owing to floods or other causes an unusually high maintenance levy or expenditure in excess of the current levy shall be necessary the board of county commissioners may provide that such levy or the levy to meet such excess expenditure be spread over a term of years and warrants or bonds issued to meet the same as herein provided for the original construction cost of a system of improvement.

Spreading
excessive
levy over
term of
years.

SEC. 35. That section 4226-33 of Rem. & Bal. Code be amended to read as follows:

Section 4226-33. The amount of the costs of construction or maintenance of any system of improvement assessed against any city, town or county may be met by levies to be paid in similar installments and extending over a like period of time as the assessments against property benefited are spread, or such amounts may be met by the issue and sale of the bonds of such city, town or county in the manner in which bonds to meet general indebtedness of such city, town or county are issued. The proper au-

Assessments
against
cities, towns
and counties,
how met.

thorities of such city, town or county shall make the necessary levies to meet such amounts thus apportioned thereto as a general levy on all property therein.

SEC. 36. That section 4226-34 of Rem. & Bal. Code be amended to read as follows:

Abandonment or enlargement of system.

Section 4226-34. Upon a petition and bond being filed by one or more land owners, either within or without the boundaries of a district, and like proceedings being had as in the case of the original establishment and construction of a system of improvement, the county commissioners may declare any system of improvement or any part thereof, abandoned or may strike from the district lands no longer benefited or served thereby, or they may cause any system of improvement to be altered, reduced, enlarged, added to or in any other manner bettered or improved, either within or without the district, and to effect such subsequent improvements, may exercise any of the powers which are in this act, or may be hereafter conferred upon such districts. But the striking of any lands from a district shall not in any way affect any assessment theretofore levied against such lands. When such improvements shall have been completed the costs thereof shall be apportioned and assessed against the lands benefited thereby in the manner hereinbefore provided for such apportionment and assessment in the case of original proceedings. New lands assessed for any such improvement shall become a part of such district. The construction and maintenance of any such new improvement, unless let by contract by the board of county commissioners, shall be under the direction of the board of supervisors of the district in which they are made or to which said improvement is added. The lands assessed for such new improvements, of less than the entire district, shall be designated, alphabetically, "sub-district of improvement district No."

Sub-districts.

SEC. 37. That section 4226-35 of Rem. & Bal. Code be amended to read as follows:

Extension of existing system.

Section 4226-35. When any extension of or addition to any existing system of improvement shall be thus con-

structed, the cost thereof shall be assessed to all the property, counties, cities and towns in the enlarged district benefited thereby in proportion to the benefits received therefrom. Any new lands thus brought into the district shall be assessed in addition a proper and equitable share of the then value of the original system of improvement in proportion to the benefits which such new lands derive therefrom. In determining the value to be so assessed the board of appraisers shall take into consideration the amount, if any, which the property to be assessed has already paid toward the construction of the original system and all other matters that may be pertinent. If at any time it shall appear to the board of supervisors of any drainage or diking improvement district that any lands without the boundaries of such district are being benefited by the improvements of the district and are not being assessed for the benefits received, they shall file a petition with the board of county commissioners praying the benefits received by such lands be determined and an assessment made upon such lands for the benefits so received. Thereupon, the board of county commissioners shall appoint a board of appraisers as provided in section 4226-25 for the apportionment of the cost of construction of the original system of improvement, and an apportionment of the then value of the improvements of the district shall be made to such lands in proportion to the benefits received therefrom as nearly as may be in the manner provided for the apportionment of the cost of the original system of improvement. In determining what share of the value of the improvements of the district shall be apportioned to such lands the board of appraisers shall take into consideration the benefits already received by such lands and all other matters that may be pertinent. The amount of the value of the original system assessed upon any new property brought within the district shall be rebated *pro rata* upon the assessments, if any, outstanding against the lands of the district on account of the construction of such original system. If the assessment against any land

Assessment
of new lands.

Apportion-
ment of
original cost.

has been paid in full, or if the assessment remaining outstanding against such land is less than the rebate apportioned to such land, the amount so rebated or excess of rebate over assessment shall be paid into the maintenance fund of the district and a proper credit on any existing or future assessment for maintenance shall be entered in favor of the land entitled thereto. The lands in the original district shall remain bound for the whole of the original unpaid assessment thereon for the payment of any outstanding unpaid warrants or bonds secured to be paid by such assessments.

SEC. 38. That section 4226-37 of Rem. & Bal. Code be amended to read as follows:

Section 4226-37. The board of supervisors of each district shall make reasonable rules and regulations whereby any owner of land in the district may make connection for drainage purposes, with any drainage system thereof. They shall also maintain and keep efficient the system of improvement of the district.

SEC. 39. Nothing in this act contained shall be construed as in anywise modifying or repealing any of the provisions of chapter 115 or of chapter 117 of the Laws of 1895, or the acts amendatory thereof or supplemental thereto, or affecting any proceedings heretofore or that may hereafter be had under the provisions of said acts.

Passed the Senate February 27, 1917.

Passed the House March 6, 1917.

Approved by the Governor March 15, 1917.

Rules for
connections
with system.

Inapplica-
bility of act
to prior
laws.