

Dedicated
to Seattle
for street
and boule-
vard
purposes.

Reversion
to state.

hundred ten and two hundred seventeen one-thousandths (510.217) feet to the point of beginning; be and the same are hereby dedicated to the City of Seattle, a municipal corporation, to be used for street and/or boulevard purposes, together with the right and authority in said city to extend the necessary slopes, fills, and cuts upon and over the property abutting thereon in the improvement and re-improvement of said street and/or boulevard; *Provided, however,* That if the said City of Seattle shall ever use, or permit the use of said land, for any purpose other than in this act provided, the same shall at once revert to the State of Washington, without any suit or action in any court and without any action on the part of the state whatsoever.

Passed the House February 25, 1927.

Passed the Senate March 2, 1927.

Approved by the Governor March 19, 1927.

CHAPTER 271.

[H. B. 90.]

COUNTY ROADS.

AN ACT providing for the establishment of a system of improved roads in counties, and providing for the manner of laying out, constructing and maintaining the same, and repealing certain acts in relation thereto.

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

County com-
missioners
may estab-
lish, etc.

SECTION 1. The commissioners of any county may, at any regular or called session, cause to be established, located and constructed, improved, straightened, widened, altered or re-located any public road or highway as herein provided, when the same is conducive to the public convenience or welfare.

SEC. 2. The word "improvement" as used in this chapter shall mean a road as contemplated to be improved under this chapter. The word "road" shall be construed to mean a public highway or thoroughfare. The words "territory (or property) particularly benefited" as used in this chapter shall be construed to include, in addition to the lands lying within two miles of either side of the center line of the improvement, all road districts or townships which will be subject to assessment for the improvement. The words "improvement boundary" as used in this chapter shall be construed to mean lines on either side of the road, following the meanders thereof, and two miles distant from, or within a two mile radius of any point on, the center line of improvement connected at the respective termini thereof by lines drawn at such angles respectively as will avoid the overlapping of the boundary by a new district, should the improvement of the highway be extended, and at the same time include all property lying within the distance aforesaid of any point on the center line of one or the other of the improvements: *Provided*, That when the center line of the improvement intersects the corporate boundary of a city or town the line connecting the termini of the side boundary lines shall follow the meandering of the city boundary in so far as said boundary shall come within said two mile limit: *Provided*, That any road district may build, re-grade, or otherwise improve, in any manner, regardless of the termini thereof, any road or part thereof, within the limits of such road district, under the provisions of this act. Words used in the singular in this act shall include the plural and the plural shall include the singular.

Terms defined:
 Improvement.
 Road.
 Territory (or property) particularly benefited.

Improvement boundary.

Improvement regardless of termini.

SEC. 3. No road improvement shall be located or commenced under this act unless the same has

Construction
limitation.

its beginning at the boundary limits of an incorporated city, or trade center located on a railroad or navigable body of water, or connected with a road or road system already improved under this act, or with a road which has been otherwise constructed of such a nature to permit of heavy freighting and rapid travel on the same at any time of the year.

Improved
road.

Description.

Grade.

SEC. 4. An improved road contemplated under this act shall be constructed as near as practicable along the center line of an established highway, and shall be uniformly graded to a width of not less than sixteen feet; the grade thereof shall not at any point, exceed five per cent: *Provided*, That where by reason of physical conditions it is not feasible or practicable to obtain a grade of five per cent, a grade of not to exceed ten per cent may be used; proper drains, culverts and bridges shall be constructed to convey off all surface and seepage water, and when the road is located along a hillside or incline, the drainage of the surface of the road bed shall be toward the hillside or incline; a roadway shall be constructed upon the graded road in such manner and of such material as will permit of heavy freighting and rapid driving during any time of the year, and if such construction shall be of macadam, concrete, brick or other hard surface it shall not be less than sixteen feet wide.

Materials.

Width.

Costs borne
by persons
and property
benefited.

SEC. 5. The costs and expenses of the improvements made under this act shall be apportioned as near as may be to the corporations, companies, persons and property benefited thereby.

Application
for improve-
ment.

Signatures
required.

SEC. 6. Applications for such improvement shall be made to the commissioners of the county, signed by the owners of at least fifty-one per cent (51%) of the lineal frontage of the lots or lands abutting upon the proposed improvement: *Provided*, That such petitioners shall appear by the assessment rolls of

the county to own property which will be particularly benefited, representing in value not less than ten thousand dollars for each mile of the improvement petitioned for, and the petitioners must represent property within the improvement boundary equivalent to not less than five thousand dollars for each mile of the proposed improvement.

SEC. 7. The petition shall be filed with the clerk of the board of county commissioners, and shall set forth the necessity of the improvement, and describe the route and termini thereof; and there shall be filed therewith a bond payable to the county with at least two good and sufficient sureties in not less than one thousand dollars, conditioned for the payment of all costs if the prayer of the petitioners be not granted, or be dismissed for any cause.

Petition filed with clerk of the board.

Bond.

SEC. 8. If the bond be approved by the clerk of the board of county commissioners, he shall immediately deliver a copy of the petition to the commissioners, who shall fix a time and place for the hearing and consideration of said petition, which time shall be not less than fifteen nor more than sixty days from the date of filing the petition, and shall cause a notice of said hearing, stating the subject matter of said petition and the place and time of the hearing, to be published in the official newspaper of the county for two weeks immediately preceding the hearing, and proof of such publication, verified by the affidavit of the owner or publisher of said newspaper, shall be filed with the clerk of the board of county commissioners on or before the date of hearing, and pending said hearing the board of county commissioners shall cause the county engineer to make a preliminary survey of said proposed improvement, and an estimate of the cost thereof, and the engineer shall attend said hearing and report the estimated cost of said improvement,

Bond approved.

Time and place of hearing on petition.

Notice.

Preliminary survey by county engineer.

Petition
dismissed.

Petitioners
to pay costs.

together with his recommendations as to the feasibility of said improvement, and his suggestions as to the nature and character thereof. If at the hearing the commissioners shall determine that the improvement asked for is not feasible, or that the cost thereof will be excessive, they shall dismiss the petition and the proceedings at the cost of the petitioners, and shall cause an itemized bill of costs to be made up by the clerk for their examination and approval, which shall include the per diem of the engineer, and all other costs necessarily incurred. If the commissioners find for the improvement they shall, by resolution entered in their journal, order said improvement.

Improvement
ordered.

Engineer to
supervise
construction.

Compensa-
tion.

SEC. 9. If the improvement is ordered by the board of county commissioners, the board may require the county engineer to perform all engineering in connection with, and to supervise the construction of, said improvement, or may, at the request of the petitioners, employ a construction engineer for that purpose and fix his compensation, and such compensation shall be paid by the county.

Improvement
resolution
certified to
county
engineer.

Survey,
plans,
etc.

Whenever the board of county commissioners shall pass a resolution ordering the improvement of a public highway under the provisions of this act, a certified copy thereof shall be transmitted to the county engineer, or construction engineer, appointed as aforesaid, who shall thereupon make the necessary surveys and prepare the profiles, maps, plans, specifications and an estimate of the cost of construction or improvement of the highway, or section thereof, described in the resolution, making such recommendations concerning deviations from existing lines as he shall deem of advantage to obtain a shorter and more direct route or to lessen gradients, or to otherwise improve such highway.

Upon the completion of such profiles, maps, plans, specifications and estimate, a copy thereof

shall be transmitted to the board of county commissioners, and upon the receipt of which, the board of county commissioners may pass a resolution adopting the same, subject to such changes, additions and modifications as may be made by the board after the hearing hereinafter provided for, and that such highway, or section thereof, shall be improved under the provisions of this act. The profiles, maps, plans, specifications and estimate as finally adopted by the board of county commissioners shall be filed in the office of the county engineer and shall become a permanent record of the county. The engineer shall also make and return a schedule and plat of all the lots and lands lying within the improvement boundary, which plat shall be drawn upon a scale sufficiently large to represent all the meanderings of the road proposed to be improved, and shall distinctly show the boundary lines of each lot or tract of land included in the improvement boundary, the name of the owner of each lot or tract of land as the same may appear upon the records in the office of the county auditor at the time, and an estimate of the total cost of the entire improvement proposed, which estimate shall include all fees and salaries estimated to be paid for locating, supervising and appraising, together with such other matters as the engineer may deem material. The profiles shall show the surface line, the grade line and the gradient fixed, and the engineer shall make and file with his report an itemized bill of all costs made in the discharge of his duty under this section, and shall file his report with the clerk of the board of county commissioners immediately after making the survey.

Adoption
of plans.

Maps, plans,
etc., perman-
ent record
filed with
engineer.

Engineer's
schedule
and plat.

Estimate
of cost.

Engineer's
report filed
with clerk
of the board.

SEC. 10. Immediately upon the filing of the engineer's report, the county commissioners shall appoint three disinterested appraisers, residing within the county, but not within the territory par-

Appointment
of apprais-
ers.

Make assess-
ment of bene-
fits and
damages.

ticularly benefited by the proposed improvement, whose duty it shall be to at once proceed to assess the benefits of such proposed improvement to the corporations, companies, persons and property particularly benefited thereby, and estimate the damages to property over or through which the road shall be established or relocated, and award the same to the owners thereof. Before entering upon their duties the appraisers shall severally take and subscribe to an oath to impartially and to the best of their knowledge and ability, perform the duties required of them, and file said oath with the clerk of the board of county commissioners. Said clerk shall thereupon and forthwith deliver into the hands of the appraisers the engineer's report upon the proposed improvement, and all maps, charts and schedules pertaining thereto, taking a receipt from said appraisers therefor. The appraisers shall thereupon proceed to actually view in person all lands as shall appear from the engineer's report to lie within the improvement boundary, and obtain from the duplicate assessment roll of the county the total assessed valuation at the time of all property within the limits of any road district or township through or into which the proposed improvement is located. They shall then prepare a schedule, which shall set forth:

Oath filed.

Engineer's
report, etc.,
delivered to
appraisers.

Duties.

Property
valuation
schedule:
Benefits to
county.

(1) The benefits assessed to the county for such improvement shall be twenty-five per cent (25%) of the whole estimated cost thereof.

Benefits
to road
district or
township.

(2) The benefits assessed to each road district or township through or into which the improvement is located, which assessment shall be equal upon all the assessed property in the road district or township according to the value thereof as shall appear upon the duplicate assessment roll of the county at the time, and which benefits shall be one-fourth (1/4)

of the whole estimated cost of the improvement within the boundary of the road district, or township.

(3) The benefits assessed to the lots and lands lying within the proposed improvement boundary, listing each tract of land assessed, giving the number of acres thereof, the owner as shall appear of record, the estimated valuation of each tract exclusive of improvement, and the benefit assessed thereto, and the total amount of benefits assessed to lots and lands shall be fifty per cent (50%) of the whole estimated cost of the proposed improvement: *Provided*, That the lots or tracts of land within the improvement boundary whose natural outlet will not be in whole or in part over said road when improved, shall not be separately assessed under the provisions of this clause: *Provided, further*, In counties having township organization the benefits assessed shall be as follows:

Benefits to lands within improvement boundary.

Natural outlet of lands not wholly or partially over said road.

Counties having township organization benefits assessed:

(a) The benefits assessed to the county for such improvement, shall be one-half ($\frac{1}{2}$) of the whole estimated cost thereof;

To the county.

(b) The benefits assessed to each township through or into which the improvement is located, which assessment shall be equal upon all assessed property in the township according to the value thereof as shall appear upon the duplicate assessment roll of the county at the time and which benefit shall be twenty-five per cent of the whole estimated cost of the improvement within the boundary of the township.

To each township.

(c) The benefits assessed to the lots and lands lying within the proposed improvement boundary, listing each tract of land assessed, giving the number of acres thereof, the owner as shall appear on the record, the estimated value of each tract exclusive of improvements, and the benefits assessed thereto, the total amount of benefits assessed to lots and

Assessment of lands within improvement boundary.

Natural outlet not over the road.

lands shall be twenty-five per cent (25%) of the whole estimated cost of the improvement: *Provided*, That the lots and tracts of land within the improvement boundary whose natural outlet will not be in whole or in part over said road when improved, shall not be separately assessed under the provisions of this clause.

Listing of lands taken and damaged and contiguous lands on which is material available for improvement work.

(4) A list of each tract or lot or portion thereof taken and damaged by the establishment or relocation of the road proposed to be improved and the lands contiguous or lying near thereto on which is located material necessary or available to be used in the construction of the proposed improvement, and of materials available for construction on contiguous or near lying lands, which list shall recite the number of acres of each of such lands so to be taken or damaged, and the amount of such contiguous or near lying materials estimated to be required, the owner thereof as shall appear of record, the estimated value thereof including improvements thereon, and the damages resulting therefrom, and the award made therefor.

Estimated value and damages.

Report by appraisers.

SEC. 11. The appraisers shall, within sixty days after the date of entering upon their duties, file a report of their findings, together with the engineer's report and all other papers to them delivered, with the clerk of the board of county commissioners, which report shall contain a schedule and estimate of all property that will be damaged, or benefited, or both damaged and benefited by the proposed improvement. Such schedule and estimate shall be arranged in parallel columns, with appropriate headings, and shall show the description of the property, and if land, give legal subdivisions, section, township and range and number of acres; and if platted, the name of the plat and the 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;" and the appraisers shall make and file with their report an itemized bill of all costs made in the proper discharge of their duties under this act; and in such bill the appraisers shall not charge for services in excess of six dollars per day for each appraiser for the time actually employed, and no extra compensation shall be allowed for mileage; upon the filing of such report the clerk shall without delay fix a date for the hearing of the reports of the engineer and appraisers; which date shall be not less than fifteen nor more than thirty days from the date of filing said reports, and shall prepare a notice in writing, directed to all owners of land, road districts or townships, affected by the improvement, setting forth the pendency, substance and prayer of the petition, and enumerating the townships or road districts and the several sections of land, according to the United States survey, which shall lie wholly or partially within the proposed improvement district, and a tabular statement of the assessments of benefits and awards of damages as made by the appraisers in their report, and stating the time and place of the hearing thereon. Such notice shall be published in the official newspaper of the county for at least two consecutive weeks before the day set for the hearing, which publication shall be proved by the affidavit of the printer or publisher of such news-

Date fixed
for hearing.

Notice to
owners.

Publication
of notice.

paper and filed with the clerk on or before the date of hearing.

Jurisdictional steps taken.

Proceed with hearing.

SEC. 12. On the date set for said hearing the board of county commissioners shall meet at the place designated in the notice, and shall first determine whether the required notice has been given. If they find that due notice has not been given, they shall continue the hearing to a day to be fixed by them and order the notice to be published as hereinabove provided. If it appear that due notice of such hearing has been given, the board of county commissioners shall proceed with the hearing on the report of the engineer and the appraisers, and any objections thereto, and may adjourn said hearing from time to time.

Hearing.

Amendment of reports of engineer and appraisers.

May employ another engineer.

Plans changed.

Engineer and appraisers prepare another schedule.

Notice to owners.

SEC. 13. At said hearing the board shall hear all pertinent evidence, including any evidence offered concerning the probable cost of the improvement and the probable benefits to accrue therefrom, and may change, add to or modify, the plans for such improvement, and change the estimate of damages or benefits in any case, and may review, change and modify any of the findings and estimates of the engineer or the appraisers, 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 engineer and may adjourn said hearing and await such report. In case any change in the plans of the proposed improvements is made at said hearing, and such change will cause additional damages to any property, or will damage any property not damaged under the original plans, the engineer and appraisers 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 settlement made as hereinafter provided, and shall then confirm the same by resolution.

SEC. 14. Any person, company or corporation party to the proceedings may file exceptions to the apportionment of benefits or compensation for damages at any time before the time set for the final hearing of the report and apportionment; the commissioners may hear testimony and examine witnesses upon all questions made by the exceptions and for that purpose may compel the attendance of witnesses by subpoena, which the clerk of the superior court shall issue on demand; and their decisions on the exceptions shall be entered on the journal, and if they sustain the exceptions, the cost of hearing thereon shall be paid out of the county treasury, and if they overrule the same, such costs shall be taxed against the person, company or corporation filing the exceptions.

Exceptions filed to apportionment.

Proceedings.

Decisions on exceptions.

Costs against persons excepting.

SEC. 15. In case any owner of property to be taken or damaged, or taken and damaged, by the proposed improvement shall agree to accept the damages estimated by the appraisers, or as fixed by the board of county commissioners, the board of county commissioners shall direct the clerk of the board to prepare a deed to be approved by the engineer and the prosecuting attorney, conveying to the county, for the benefit of the proposed district, the property to be taken, and the right to damage property not taken. If the damages agreed upon are equalled or exceeded by the agreed estimated benefits, the grantors in the deed shall execute and deliver the same without consideration other than the right to have the damages offset against the benefits in the apportionment of the cost of the improvement as hereinafter provided. If the damages agreed to are damages to property not benefited, or if such damages exceed the agreed benefits, the grantors in

Damages accepted.

Engineer and prosecuting attorney to approve deed.

Benefits equal or exceed benefits.

Damages exceed benefits.

Deed by
owner to
county.

the deed shall execute and deliver the same upon the receipt of a warrant drawn by the county auditor, under the direction of the board of county commissioners, upon the general road and bridge fund of the county, for the amount of damages, or the amount of excess of damages over benefits, as the case may be. No such deed shall be accepted, either with or without consideration, until the title conveyed thereby has been approved by the prosecuting attorney.

Approval
of title.

Damages
rejected.

SEC. 16. If at the conclusion of the hearing on the report of the engineer and appraisers, it shall appear to the board of county commissioners that the owner of any property to be taken or damaged by the proposed improvement, has not accepted and agreed to the damages estimated by the appraisers or fixed by the board, the board may, in its discretion, appoint an agent to secure acceptances and deeds from such owners, and shall, within a reasonable time, direct the prosecuting attorney of the county to institute proceedings in the superior court of the county in which the property, affected is located, for the determination of the damages to be sustained and the condemnation of any property the title to which or the right to damage which has not been acquired, and shall direct the clerk of the board to furnish the attorney with a certified copy of such proceedings of the board as he shall require.

Condemna-
tion proceed-
ings ordered.

Eminent
domain
by county
authorized.

SEC. 17. For the purpose of taking or damaging property for the purposes of this chapter, counties shall have and exercise the power of eminent domain and the mode of procedure therefor shall be as provided by law for the condemnation of lands by counties for public highways.

Verdict
determining
damages.

SEC. 18. The jury in such condemnation proceedings shall find and return a verdict for the amount of damages sustained: *Provided*, That the

jury, in determining the amount of damages, shall take into consideration the benefits, if any, that will accrue to the property damaged by reason of the proposed improvement, and shall make special findings in the verdict of the gross amount of damages to be sustained and the gross amount of benefits that will accrue. If it shall appear by the verdict of the jury that the gross damages exceed the gross benefits, judgment shall be entered against the county and in favor of the owner or owners of the property damaged, in the amount of the excess of damages over the benefits, and for the costs of the proceedings, and upon payment of the judgment into the registry of the court for the owner or owners, a decree of appropriation shall be entered, vesting the title to the property appropriated in the county. If it shall appear by the verdict that the gross benefits as found by the jury equal or exceed the gross damages, judgment shall be entered against the county and in favor of the owner or owners for costs only, and upon payment of the judgment for costs a decree of appropriation shall be entered, vesting the title to the property appropriated in the county. The verdict and findings of the jury as to damages and benefits shall be binding upon the board of county commissioners, and the necessary amendments to comply therewith shall be made upon the schedule of damages and benefits prepared by the appraisers and filed with the board of county commissioners.

Jury to make findings as to benefits and damages.

Damages exceed benefits.

Payment of judgment.

Decree of appropriation.

Benefits equal or exceed damages.

Judgment to owner for costs.

Jury's determination binding upon commissioners.

SEC. 19. At any time after the expiration of five days from the entry of the resolution of the board of county commissioners ordering an improvement under the provisions of this act, the board of county commissioners may fix a time for the receiving and opening of sealed bids for the construction of the proposed improvement, and if

Improvement ordered.

Calls for bids.

May divide improvement into sections.

All construction by contract awarded.

Notice of awarding contracts.

Opening bids.

Notice for bids: contents.

Publication of notice.

Check to accompany bid.

in the opinion of the board of county commissioners the interests of the public will be advanced thereby, they may divide the improvement into sections of a more or less number of lineal feet, and call for bids on each of said sections, or they may call for bids for each kind of work to be done or material to be furnished, or any one or more of such kinds of labor and material, as they may believe to be advisable, but in every case all of the construction shall be performed by contract, duly awarded, as provided in this section. They shall cause notice to be given, as hereinafter provided, of the time and place of awarding contracts, and shall direct the engineer who made the survey and estimates, or other competent engineer, to attend at the time and place of opening bids. The board of county commissioners shall superintend and conduct the same, receive all bids for the construction of the improvement, and enter into agreements in the name of the county. The notice for bids shall state the location and general nature of the improvements to be done, and where the plans and specifications are filed for examination, and shall be signed by the clerk of the board of county commissioners by order of the board. The notice shall be published for at least two consecutive weeks previous to the date of receiving and opening bids, in one or more daily or weekly newspapers published and of general circulation in the county, and in such other manner as the board may see fit to direct.

SEC. 20. Every bid shall be accompanied by a certified check for at least one-tenth of the amount bid, in case the bid is for one thousand dollars (\$1,000.00) or less, and for not less than one-twentieth of the amount bid in case the bid exceeds one thousand dollars (\$1,000.00), payable to the county, which check shall be forfeited to the county

upon the failure of any successful bidder for a period of ten days after any contract is awarded to such bidder to execute a contract in writing to perform the work according to the plans and specifications, and furnish the bond required. No bid shall be received by the board of county commissioners unless the same was filed with the clerk of the board prior to the time fixed in the notice calling therefor, and at the time fixed all bids then received shall be immediately opened and publicly read. The board of county commissioners may reject any or all bids if in their judgment good cause exists therefor, or if the total amount of bids for the several items of construction for which bids were called for shall exceed the estimated cost of construction, but otherwise they shall award the contract or contracts to the lowest and best responsible bidder or bidders who shall give satisfactory evidence of ability to perform the contract or contracts. Bidders to whom contracts shall be awarded, shall execute for the benefit of the county, a surety bond to accompany each separate contract, conditioned for the faithful performance of the contract, in a sum equal to the full amount of the contract.

Forfeiture
of check.May reject
bids.Contractor's
bond.

SEC. 21. When the amount of any contract is less than one thousand dollars (\$1,000.00) no payment shall be made thereon until the contract is fully completed to the satisfaction of the board. When partial payments are provided for in any contract, as each payment becomes due and before payment shall be made, the engineer in charge of the work shall file with the clerk of the board of county commissioners an estimate of the amount of work done or material furnished, and his certificate that such work has been done in all respects as required by the contract. If such estimate and certificate be approved by the board of county commissioners the

Payments on
contracts.Partial
payments.Engineer's
estimates.

Approval.

Twenty
per cent
reserved.

Engineer's
approval
prerequisite
to final pay-
ment.

Engineer's
certificate.

clerk of the board shall as county auditor draw a warrant on the county treasurer in favor of the contractors for the amount due: *Provided*, That no partial payment made during the progress of the work shall exceed eighty per centum of the estimated value of the work done: *And provided further*, That before any final payment is made on any contract, the work shall first be examined by the engineer who prepared the estimate, or other competent engineer appointed by the board of county commissioners, and the engineer shall file his certificate with the clerk of the board of county commissioners that the work has been fully performed and completed in accordance with the contract. Upon the filing of such certificate of the engineer the board of county commissioners shall examine the work, and if the same is found to have been fully completed in accordance with the contract, shall by resolution entered in their minutes make final payment and direct the county auditor to draw his warrant on the county treasurer for the amount due.

Readvertis-
ing for bids.

Re-let
contract.

SEC. 22. If, at the time of letting, satisfactory bids are not received for the whole or any part of the improvement, a future time and place shall be fixed for again receiving bids, notice of which shall be given and the same conducted in every manner as hereinbefore provided; or, if any contractor shall fail to perform his work or complete the same, the contract shall be re-let in manner as hereinbefore provided.

Inspection of
work by
county
engineer.

SEC. 23. It shall be the duty of the county engineer in charge of said work, if the county commissioners so direct, to inspect all work of construction from time to time and see that the same is being done according to contract.

Cost and
expense of
improve-

SEC. 24. There shall be included in the cost and expense of such improvement the estimated cost and

expense of all engineering and surveying necessary for said improvement, ascertaining the ownership of the lots, tracts or parcels of land included in the improvement district, the cost of publishing notices required to be published, accounting and clerical labor, books and blanks expended or used in connection with said improvement.

ment: what included.

When the appraiser's report shall be confirmed, the clerk of the board of county commissioners shall prepare, certify to and file with the county treasurer, an assessment roll for each such improvement on which the estimated cost of such improvement shall be entered against the persons and property as shown on the schedule of appraisement, first deducting from any assessment against a person, company or corporation to whom awards of damages have been made the amount of the same, and in case of any excess of damages over the assessment, a warrant shall be drawn on the county treasurer in favor of the person, company or corporation to whom such damage has been awarded for the balance due after deducting the assessment.

Appraiser's report confirmed.

Assessment roll to treasurer.

From and after the filing of such assessment roll with the county treasurer, the charge on the respective lots, tracts and parcels of land and other property for the purpose of special assessments on account of such improvement shall be a lien on the property assessed, paramount and superior to any other lien or incumbrance whatsoever, theretofore or thereafter created, except a lien for assessments for general taxes.

Priority of lien of assessments.

Each year when an installment is payable, the clerk of the board of county commissioners shall extend the amount of the same together with interest on the deferred payments at the bond rate upon such assessment roll.

Extension of annual installment upon assessment roll.

Special taxes shall be levied, become delinquent, and be collected as other general taxes sufficient to

Collection as other general taxes.

pay the next accruing portions of the cost and expense of any such improvement chargeable to the county and to the road districts, or townships, respectively, including interest thereon at the bond rate to the next annual installment payment date on such bonds. After delinquency the interest upon such special taxes shall be the same as upon general taxes.

Delinquency.
Interest.

No segregation shall be made so that the unpaid principal against any segregated description shall be less than twenty-five dollars, except upon payment thereof.

Segregation.

SEC. 25. When the petition shall so request, the portion of the cost of the improvement chargeable to the improvement district shall be paid for in equal annual installments. The petition shall set forth "that the improvement be paid for on theyears installment plan," and the number of years shall not be more than ten. When the improvement is done under the provisions of this section the board of county commissioners shall by resolution direct the county treasurer to open an account to be known as "The.....road improvement fund." The clerk of the board of county commissioners shall divide the total estimated cost of the improvement and apportion the same in accordance with the findings and report of the board of appraisers and those portions of the expense to be borne by the county, townships or road districts shall be levied and collected as other taxes, after the awarding of the contract for said improvement: *Provided*, That the board of county commissioners shall, if the petitioners so request, arrange that the portion of the expense to be borne by the road districts or townships be paid in not to exceed ten equal annual installments and the board may in its discretion provide that the portion of the expense

May pay improvement cost in annual installments.

Ten-year limit.

Road improvement fund account.

Apportionment of cost.

Levy.

to be borne by the county be paid in not to exceed ten equal annual installments, and shall divide that portion of the expense to be borne by the county, road districts, or townships, and also the lots and land lying within the proposed improvement boundaries and found to be specially benefited, into as many equal parts as there are installments. 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 or less, such assessment shall be paid in cash and the terms of this act relating to the payment of assessments in installments shall not apply to such assessments: *Provided further*, That the levy of such taxes against road districts or road and bridge funds for any improvement heretofore made shall not be affected by any limitation of law as to tax levies against such road districts or road and bridge funds.

When installment payments not permitted.

Tax levy limitation.

SEC. 26. That all moneys collected by levy and assessment for improvements made under the provisions of this act shall be paid into such "..... road improvement fund" and all payments made for costs of said improvements shall be paid by warrants drawn by the county auditor on said improvement fund upon presentation of proper vouchers, and such warrants shall bear interest at a rate not exceeding six per cent per annum.

Collections to road improvement fund.

Costs of improvements paid by warrants thereon.

SEC. 27. That whenever the board of county commissioners shall have provided for the payment of said assessment in installments, as aforesaid, it may, if it shall deem it necessary or proper, issue bonds of the county, payable from the said road improvement fund, not to exceed twelve years after the date of the issuance thereof, with such option to redeem as shall be advisable, in an amount not exceeding the cost of such improvement, and said

May issue bonds if installment payments for improvement.

To redeem within 12 years.

Interest on
bonds.

Sell at par.

Payment of
bonds from
general fund.

Bond inter-
est payable
from im-
provement
funds.

New im-
provement
district
overlaps
old district.

How
adjusted.

bonds shall bear interest at a rate not greater than seven per cent per annum, and shall be sold at not less than par, by the board of county commissioners in such manner as they shall deem advisable: *Provided*, That should there not be sufficient money in said improvement fund to make payment of any installment of interest, or the bonds when due, said interest or bonds may be paid out of the general road and bridge fund or the current expense fund of the county, as may be directed by the board of county commissioners, and such fund shall be reimbursed from said improvement fund from time to time as monies are paid therein. The county treasurer shall pay the interest on the bonds authorized to be issued by this act out of the respective improvement funds from which they are payable.

SEC. 28. That when a proposed road improvement shall intersect a road which has been completed or ordered constructed under any local improvement plan, that portion of the proposed new district overlapping the limits of the old improvement district shall be divided into four equal subdivisions parallel to the previously improved road, and numbered consecutively from the line of the previously improved road on either side thereof. The first subdivision shall be assessed one-fifteenth of the cost of the proposed new road improvement, the second, two-fifteenths of the cost of the proposed new road improvement, the third, three-fifteenths of the cost of the proposed new road improvement and the fourth, four-fifteenths of the cost of the proposed new road improvement, and the remainder of the cost of the improvement chargeable to said area shall be paid by the county out of the general road and bridge fund.

SEC. 29. That no assessments for road construction or improvements, under the terms of this act,

for which any county may be held liable, shall ever exceed four mills on the dollar of assessed value of property in the county, in any one year.

Limit of
tax levy.

SEC. 30. The owner of any lot, tract or parcel of land or other property charged with any such assessments may redeem the same from all or any portion of the liability for the contract price of such improvement by paying the entire assessment or any portion thereof charged against such lot or parcel of land, without interest, within thirty days after notice to him of such assessment. Assessments certified to the county treasurer for collection in due time therefor shall become due and payable during the thirty day period ending May 31st or November 30th respectively. Such notice shall be given by the county treasurer by publication in the official newspaper of the county in two consecutively weekly issues, that the assessment roll is in his hands for collection and that any assessment thereon or any portion thereof may be paid at any time without penalty, interest or costs during such payment period, and that any assessments in the sum of \$25.00 or less must be paid in cash. The bonds herein provided for shall not be issued prior to twenty days after the expiration of the thirty days above mentioned, but may be issued at any time thereafter. Whenever any assessment shall be payable in installments, each installment shall become due and payable annually thereafter, during like thirty day periods as in case of original payments upon such assessments. The owner of any such lot, tract or parcel of land may redeem the same from all liability for the unpaid amount of said assessment at any time after said thirty day period for original payment by paying the entire installments of said assessment remaining unpaid and charged against said lot, tract or parcel of land at the time

Payment of
assessments.

May pay all
or part with-
out interest.

Notice by
publication
assessments
payable.

When bonds
may be
issued.

When
installment
payments
due.

When may
pay all in-
stallments.

of such payment with interest thereon to the end of the next thirty day payment period. Assessments or installments thereof not paid, within the time herein prescribed shall become delinquent. Assessments or installments thereof, when delinquent shall in addition to interest, have a penalty of five per cent (5%) upon both principal and interest and shall be collected as other general taxes are collected.

Delinquency.

Penalty.

When re-assessment permitted.

SEC. 31. In all cases of special assessments for local improvements, wherein said assessments have failed to be valid in whole or in part for want of form or insufficiency, informality or irregularity or non-conformance with the provisions of law, governing such assessments, or for insufficiency in the assessment, or that property specially benefited was omitted, in any county, the board of county commissioners of such county shall have power by resolution to re-assess such assessments and to enforce their collection in like manner as in original assessments.

Proceedings as to re-assessment same as original assessment.

All the provisions of this act relating to the filing of appraiser's reports, time and place of hearing thereon, notice of such hearing, the hearing thereon, and the confirmation thereof, the preparation, certification and filing of a re-assessment roll, the time when such assessments shall become a lien upon the property assessed, the method of collecting such assessments and all proceedings for enforcing the lien thereof shall be had and conducted the same in the case of re-assessments as in the case of an original assessment.

Resolutions by board of commissioners.

SEC. 32. The board of county commissioners shall pass such resolution or resolutions as may be necessary to carry out the provisions of this act. Thereafter all proceedings relating to such improvements shall be had and conducted in accordance with this act and such resolutions.

SEC. 33. Whenever the sinking fund for such improvements shall, over and above the amount necessary for the payment of interest on all unpaid bonds, be sufficient to pay the principal of one or more bonds, the county treasurer shall designate sufficient bonds, bearing the lowest numbers among those outstanding, to absorb the amount of said fund on hand, as near as may be, and he shall call such bonds by publishing a notice, giving the numbers of the bonds so called for payment, and fixing a day, not less than fifteen days after the first publication of the notice, when the bonds will be paid with accrued interest at the place of payment of said bonds, which notice shall be published in a daily newspaper published in the county seat once in each week for two consecutive weeks. And in case the bonds so called for payment are not presented on the day fixed therefor in such notice, interest thereon shall thereupon cease: *Provided*, That money for the payment thereof shall at all times thereafter be retained at the place of payment of the bonds, in readiness for payment of the same on presentation, until such bonds are presented for payment. All bonds and coupons received by the county treasurer under the provisions of this section shall be at once cancelled by him and filed as vouchers with the county auditor as *ex-officio* clerk of the board of county commissioners.

Sinking fund.

Payment of bonds therefrom.

Notice calling bonds.

Bonds not presented.

Interest ceases.

Cancellation and filing of bonds and coupons.

SEC. 34. If an engineer, clerk of the board of county commissioners, or appraiser, neglect or refuse to perform any duty imposed upon him by the provisions of this act, he shall forfeit and pay a fine of twenty-five dollars for every such neglect or refusal, to be recovered before any court having competent jurisdiction, in the name of the state, for the benefit of the common schools of the county, at the suit of any person aggrieved thereby.

Penalty for neglect or refusal of officers or employees to perform duties.

Correction
by court
of errors in
proceedings.

Hearing.

Order of
court.

SEC. 35. The court in which any proceeding is brought to recover any tax or assessment paid, or declare void the proceedings to locate or establish any road, or to enjoin any tax or assessment levied or ordered to be levied to pay for the labor and expense as aforesaid shall, if there is manifest error in the proceedings, allow the plaintiff in the action to show that he has been injured thereby, and may on application of either party, appoint such person or persons to examine the premises or to survey the same, or both as may be deemed necessary; the court in which any such proceedings are begun shall allow parol proof that such improvement is necessary and will be conducive to the public needs, convenience and welfare, and that any steps required by law for any improvement have been substantially complied with, notwithstanding any defects or omissions in the records required to be kept by any board or officer; and with or without finding error, the court may correct any gross injustice in the apportionment made by the commissioners; the court shall, on final hearing, make such order in the premises as shall be just and equitable, and may order that such tax and assessment remain on the duplicate assessment roll for collection, or the same to be levied, or may perpetually enjoin the same or any part thereof; or if the same has been paid under protest may order the whole or any part thereof as is just and equitable to be refunded, and the costs of such proceedings shall be apportioned among the parties or paid out of the county treasury as justice requires.

Petition for
locating im-
provements.

Commis-
sioners to
hear and
determine.

SEC. 36. The county commissioners may hear and determine at the same time and under the same petition the necessity of locating any new improved road, or of a road already partly improved, or of widening, straightening, re-locating or altering any road previously improved, or in process of improve-

ment under this act, as the necessity of the case requires, and shall cause such entry to be made on their journal as in their judgment is required. All estimates shall be made in the manner provided in this act. No assessment shall be made to any land, person, or property upon any principle other than that of benefits derived and in proportion thereto.

SEC. 37. The board of county commissioners shall require each engineer and appraiser appointed by them under the provisions of this act to enter into a good and sufficient bond, with surety to be approved by them, conditioned for the faithful performance of his duties, in a sum to be fixed by the county commissioners, and an action may be brought on such bond by any person aggrieved by a failure of any such person so appointed to do his duty, in the name of such party, and recovery may be had for his benefit.

Bond of
engineer and
appraisers.

SEC. 38. Upon the completion of any improved road or any section thereof, for which final payment has been made, the charge and care thereof shall be assumed by the road district, or township, officers in each district or township in which the improvement is located, and it shall be the duty of such road officers to keep the improved roads in their respective districts or townships in constant and good repair, and any failure so to do shall justify the county commissioner in the commissioner's district in which the neglect occurs, to cause such repairs to be made at the expense of the road district or township in which the repairs are done.

Improve-
ment com-
pleted.

Officers to
assume care
of roads.

SEC. 39. The county commissioners may, on the proper petition and bond being filed, and the same notice being given as required in cases of the location of an improved road, declare any such road vacated and abandoned and its location and establishment to be held for naught, if in their judgment

When county
commis-
sioners may
vacate road.

the same has ceased to be of public utility, and the public need, convenience and welfare no longer demand the maintenance thereof; but private rights of persons acquired by reason of the location and establishment of such road shall not be interfered with nor in any way impaired thereby unless due compensation be made therefor.

Private rights impaired.

Compensation.

State lands subject to assessments.

SEC. 40. Any state, county, school, school district or other lands shall be subject to the provisions of this act, and the proper authorities having charge of said lands may institute proceedings to enjoin assessment of benefits hereunder or for damages herefrom as in the case of private persons: *Provided*, That such public authorities shall not be required to give any bond in such proceedings.

Clerk of board to keep record of roads improved.

SEC. 41. The clerk of the board of county commissioners shall make, in a suitable book to be provided for that purpose, at the expense of the county, a complete record of each road in his county improved under the provisions of this act, which record shall include the petition and all bonds, reports of the engineer, appraisers and all journal entries made, together with all plats and other papers necessary to show a complete history of all that is done in each case up to and including the final order made by the board.

Keeping of road accounts.

SEC. 42. The commissioners of any county wherein a road improvement is ordered shall provide a suitable book in which to keep the improved road accounts of the county. The clerks shall open therein an account with each improvement in the name by which the same is known, and charge all assessments and credit all payments made in the case. The money collected on each improvement shall constitute a special fund unless the cost of the improvement shall have been advanced out of the general road and bridge fund, in which case the

money collected shall be credited to the general road fund.

SEC. 43. Fees for services of officers under this act shall be the same as for like services in civil cases, or as is or may be provided by law.

Fees for services of officers.

SEC. 44. In performing their duties under this act, the county commissioners shall be entitled to a per diem allowance equal to that allowed by law for other services.

Commissioners' per diem.

SEC. 45. It shall be the duty of the prosecuting attorney in each county to prepare suitable blanks for the use of the board of county commissioners, under this act.

Blanks for board.

SEC. 46. All fees under this act, when not otherwise provided for herein, shall be paid out of the current expense fund of the county as soon as the bills and items thereof are examined and allowed by the commissioners; and for all amounts so paid, except to the commissioners and clerk, the commissioners shall order the current expense fund to be reimbursed from the money raised for the respective improvements.

Reimbursement of current expense fund from improvement assessments.

SEC. 47. All balances remaining unexpended of any road improvement fund arising from excess of assessments made after the expenses thereof have been fully paid, shall be transferred to the general road and bridge fund of the county.

Transfer of unexpended balances.

SEC. 48. In cases where a road improvement under this act is desired but the proposed improvement is of such local nature that at least 75% of its benefit will accrue to the lands in the immediate vicinity thereof, such improvement may be ordered and constructed and the costs thereof paid and the assessment therefor levied and collected as set forth in this act, under certain modifications of the procedure, rights and liabilities therein set forth, such

Seventy-five per cent of benefit of improvement accrue to lands in immediate vicinity.

How assessed.

changed and special procedure, rights and liabilities, being as follows:

What im-
provement
boundary
shall include.

The "improvement boundary" of such special district need not include all lands lying within two miles from the proposed road improvement as required by section 2 of this act, but shall include such lands within such distance or a lesser distance therefrom as are especially benefited thereby. Otherwise it shall be as defined in said section.

Application
for improve-
ment.

Signatures
required.

Recitals of
petition.

Application for such improvement shall be made to the commissioners of the county signed by the owners of at least fifty-one per cent (51%) of the lineal frontage of the lots or lands abutting upon the proposed improvement. The improvement boundary shall be recited in the said petition and the subscribers of said petition shall further appear by the assessment rolls of the county to own lands within said improvement boundary of the total assessed valuation of half or more than half of the assessed valuation of all lands lying within said improvement boundary. Other than as herein stated the provisions of section 6 of this act shall be applicable to such petition.

Subscribers'
agreement
as to special
benefits.

The petition for such improvement shall recite that the subscribers thereto agree that the special benefits accruing to the lands within the improvement boundary will be at least 75% of the benefits accruing therefrom and that there may be assessed against the lands within said improvement boundary at least 75% of the cost of such proposed improvement and as much more thereof as may be found equitable to be assessed thereto.

Apportion-
ment of costs
of improve-
ment.

In case of such special improvement the appraisers in assessing the benefits for the same as specified in section 10 of this act, shall apportion at least 75% of the costs of the proposed improvement, and such greater proportion thereof as they shall

find equitable against the lands lying within the proposed improvement boundary; the remainder of said costs shall be apportioned equally against the road districts or the townships traversed by said improvement and the county. Otherwise said assessment shall be as prescribed by said section 10.

If bonds are issued for payment of such special improvement the interest and principal thereof shall be payable only out of the improvement fund, and no advances to pay the same shall be made out of the general road and bridge fund of the county, or out of the county current expense fund or out of any other county funds.

Bonds issued.

Payable only out of improvement fund.

In case of such special improvement being constructed, all the lands included within the improvement boundary shall be and remain liable for the costs of the improvement until the same are fully paid; 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, or if by inadvertence or for any cause the assessment levied shall be found to be insufficient to meet the entire cost of construction, the board of county commissioners shall cause a supplemental assessment to be made on the property benefited by the improvement and against the county, and the road districts or townships chargeable therewith in the manner provided for the original assessment, and in the same proportion as said assessment, to cover the deficiency so caused in the original assessment.

All lands within district liable for costs of improvement.

Foreclosure of assessment against property.

Assessment insufficient.

Supplemental assessment to pay deficiency.

SEC. 49. That chapter CXXIII (123) of the Laws of 1893, pages 301-322; chapter CIV (104) of the Laws of 1899, pages 169-171; chapter 72 of the

Statutes repealed.

No revivor.

Pending
proceedings
and rights
acquired not
affected.

Laws of 1917, pages 238-254; chapter 95 of the Laws of 1919, pages 230-231; chapter 127 of the Laws of 1919, page 298; chapter 159 of the Laws of 1921, pages 635-646; chapter 147 of the Laws of 1923, pages 475-481; sections 6598 to 6646-1, both inclusive, of Remington's Compiled Statutes, and sections 6082 to 6125, both inclusive, of Pierce's 1919 Code, are hereby repealed: *Provided*, That the repeal of said acts or any of them shall not be construed as reviving any former act amended or repealed by any thereof: *And Provided further*, That nothing in this act shall be construed as affecting any proceedings instituted under any of said acts hereby repealed and pending at the time this act takes effect, nor as affecting any improvements already begun under any of said acts hereby repealed, nor as affecting any rights acquired or obligations incurred under any of said acts hereby repealed, but all such proceedings and improvements shall continue under the provisions of this act as though said former acts had not been repealed and all such rights and obligations shall be enforceable under the provisions of this act as though said former acts had not been repealed.

Passed the House February 11, 1927.

Passed the Senate March 2, 1927.

Approved by the Governor March 19, 1927.