

Repealing
clause.

SEC. 5. Section 82.08.130, R.C.W., as derived from section 28, chapter 180, Laws of 1935, is repealed.

[Rep. Rem. Supp. 8370-28]

Emergency.

SEC. 6. This act is necessary for support of the state government and its existing public institutions and shall take effect April 1, 1951.

Passed the Senate February 14, 1951.

Passed the House March 4, 1951.

Approved by the Governor March 8, 1951.

CHAPTER 45.

[H. B. 57.]

DIKING DISTRICT ASSESSMENTS.

AN ACT relating to powers of diking districts; providing a method to determine continuous base benefits received by land and buildings thereon, which are protected by the improvements of such districts, and for the levying and collection of assessments against the same to pay for the continuous operation of such districts, and authorizing additional obligations to be incurred in cases of emergency; and declaring an emergency.

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

Declaration
of state's
interest.

SECTION 1. The state declares that it has an interest in protecting and preserving productive land and buildings needed to make business function continuously. Where organized diking districts, through their improvements, have reclaimed land or protected it from overflow and have enabled erection of improvements thereon or have furnished such land and buildings protection against flood waters, it is necessary to provide a just and equitable method to enable such diking districts continuously to function effectively. It is declared that there is a direct relationship, where such conditions exist, between the continuous functioning of such districts

and the fair value of the lands and buildings thereon, or to be erected thereon, thus afforded protection.

SEC. 2. When any diking district has been organized and the improvements made afford protection to land and buildings within such district against damage or destruction from overflow waters in that the level of the land and of the foundational structures of buildings thereon is below the water level at flood or high tide stages of the waters, fresh or salt, against which such district improvements furnished protection, the board of diking commissioners of such district may, under the procedure established in this act, determine such fact and by resolution so declare; and may provide that the cost of continued functioning of the district shall be paid through levies of millage made and collected according to this act against the land and buildings thus protected, based upon the determined base benefits received by such land and buildings.

Improvements protecting property.

Board of diking commissioners.

Levies.

Base benefits.

SEC. 3. To operate under this act, the board shall cause to be prepared and filed with it a roll containing descriptions of the land and buildings thereon within the district to which its improvements furnish the nature of protection set forth in section 2. The roll shall show descriptions of the land and the name of its owner, or reputed owner, and such owner's address, as shown upon the tax roll of the treasurer of the county wherein the property is located, and the determined value of such land and any buildings thereon as last assessed and equalized by the taxing agencies of such county.

Board to prepare roll.

SEC. 4. After the roll is prepared the board shall give notice of a time and place at which the board will hold a public hearing to determine whether the facts and conditions heretofore recited in this act as a prerequisite to its application do or do not exist, and if so found to exist by said board at said hearing, then the board shall by resolution so declare. The

Notice of hearing.

Contents
of notice.

notice shall also state that at said hearing, or any continuance thereof, the board will sit to consider said roll and to determine the continuous base benefits which each of the properties thereon are receiving and will receive from the continued operation and functioning of such district, which shall in no instance exceed fifty per cent of the true and fair value of such property in money, will consider all objections made thereto or to any part thereof, and will correct, revise, lower, change, or modify such roll as shall appear just and equitable; that when correct benefits are fixed upon said roll by said board, it will adopt said roll by resolution as establishing, until modified as hereinafter provided, the continuous base benefit to said protected lands and buildings against which will be levied and collected millage to provide funds for the continuous functioning of said district.

Notice.

SEC. 5. The notice of the time and place of hearing shall be given to any owner, or reputed owner, of the property which is listed on the roll as aforesaid, by mailing a copy thereof at least thirty days before the date fixed for the hearing to such owner or owners at his or their address as shown on the tax rolls of the county treasurer for the property described. In addition thereto, such notice shall be published at least three times in the daily or weekly newspaper published in or nearest to said district, and if there be more than one such, then the newspaper of the choice of said board of commissioners. At least fifteen days must elapse between the last date of publication thereof and the date fixed for such hearing.

Mailing.

Publication.

Hearing;
duties of
board.

SEC. 6. At said hearing, or adjournments thereof, the board shall review said roll and determine the continuous base benefits to land and buildings furnished continuous protection by the improvement system of the district; hear objections to the adop-

tion of said roll; correct, revise, change, modify or set aside such roll, or any part thereof, as to the board shall appear equitable and just; and then adopt the same by resolution. All objections to this or any subsequent roll must be in writing and filed with the board during the hearing before the roll is adopted and must state clearly the grounds of objection. Objections not made within the time and in the manner herein prescribed shall be conclusively presumed to have been waived.

Objections.

Waiver.

SEC. 7. The board shall, from time to time, examine the properties within said district, and if it finds that any protected land or buildings thereon have been omitted from the existing roll, or new buildings have been added to lands, or the condition of land or buildings has changed, and in the initial judgment of the board such land or the buildings thereon was such that it was furnished the protective benefits of the improvements of the district, the board shall cause at each such time an additional roll of such property to be filed with it, and hold a hearing to determine and make such corrections, additions, alterations and modifications of the benefits to such property only, and to hear any objections filed as to such property only. The board shall give notice of such hearing to the owner, or reputed owner, of the property involved, at the address of such owner as then shown on the tax rolls of the treasurer of the county wherein the property is located, in the same way and manner as herein provided for consideration of the original roll, but such notice need not be published.

Additional rolls pursuant to examination of property.

Hearings.

Notice.

At the hearing, or any adjournment thereof, the board shall have power to correct, revise, change, modify, or set aside such roll, or any part thereof, as shall be deemed just and equitable, and then adopt the same by resolution.

Adjustment.

Roll to be certified and filed.

SEC. 8. When any roll or additional or supplemental roll be adopted by the board of commissioners, the same shall be certified to, and filed with, the auditor of the county wherein the property contained on said roll is situated, and shall supplement said original roll.

Roll as base of benefits.

SEC. 9. Until further modified, amended, or changed by an additional or supplemental roll certified to the county auditor after the foregoing procedure is had, the original roll, as modified or supplemented, if the same is done, shall serve as the base of benefits to the land and buildings protected by the improvement system of said district against which millage is levied and collected from time to time for the continued functioning of said diking district.

Roll adopted is conclusive.

SEC. 10. Whenever any roll shall have been adopted by the board of commissioners, the regularity, validity and correctness of the proceedings relating thereto shall be conclusive upon all parties, and it cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll as provided in section 6 and appealing from the action of the board in confirming such roll in the manner and within the time in this act provided. No proceeding of any kind, except proceedings had through the process of appeal as in this act provided, shall be commenced or prosecuted or may be maintained, for the purpose of defeating or contesting any assessment or charge made through levies under this act, or the sale of any property to pay such charges:

Contest only by appeal.

Injunction.

Provided, however, That suit in injunction may be brought to prevent collection of charges of assessments or sale of property thereunder upon the following grounds and no other:

(1) That the property charged or about to be sold does not appear upon the district roll filed with the county auditor, or

(2) The charge has been paid.

SEC. 11. The decision of the board of commissioners upon any objection made within the time and in the manner prescribed may be reviewed by the superior court of the county wherein the property in question is located, upon appeal thereto taken in the following manner: Any person aggrieved must file his petition for writ of review with the clerk of the superior court wherein the property is located within ten days after the roll affecting such aggrieved party was adopted by resolution, and serve a copy thereof upon the commissioners. The petition shall describe the property in question, set forth the written objections which were made to the decision, the date of filing of such objections, and be signed by such party or one in his behalf. The court shall forthwith grant such petition if correct as to form and filed in accordance with this act.

SEC. 12. Within ten days from the filing of such petition for review, the commission, unless the court shall grant additional time, shall file with the clerk of such court its certified transcript containing such portion of the roll as is subject to review, any written objections thereto filed with the board by the person reviewing before said roll was adopted, and a copy of the resolution adopting the roll.

SEC. 13. The county clerk shall charge the same filing fees for petitions for review as in civil actions. At the time of the filing of such petition with the clerk, the appellant shall execute and file a bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of said court, conditioned upon his prosecuting his appeal without delay and to guarantee all costs which may

be assessed against him by reason of such review. The court shall, on motion of either party to the cause, with notice to the other party, set said cause for trial at the earliest time available to the court, fixing a date for hearing and trial without a jury. Said cause shall have preference over all civil actions pending in said court except eminent domain and forcible entry and detainer proceedings.

Trial.

Issue.

SEC. 14. At the trial the court shall determine whether the board has acted within its discretion and has correctly construed and applied the law. If it finds that it has, the finding of the board shall be affirmed; otherwise it shall be reversed or modified. The judgment of the court may change, confirm, correct, or modify the values of the property in question as shown upon the roll, and a certified copy thereof shall be filed with the county auditor, who shall change, modify or correct as and if required.

Judgment.

Appeal to supreme court.

SEC. 15. An appeal shall lie to the supreme court from the superior court as in other civil cases: *Provided, however,* That such appeal must be taken within fifteen days after the date of entry of the judgment of the superior court. The supreme court, on such appeal, may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision if required.

Returns constitute assessments for benefits.

SEC. 16. The millage levy returns collected from time to time under this act are solely assessments for benefits received continuously by the protected properties, calculated in the manner specified in this act as a just and equitable way for all protected property to share the expense of such required protection.

SEC. 17. The board of commissioners of any diking district proceeding under this act shall, on or before the first day of November of each year, make an estimate of the costs reasonably anticipated to be required for the effective functioning of such district during the ensuing year and until further revenue therefor can be made available, and cause its chairman or secretary to certify the same on or before said date to the county auditor, and the amount so certified shall be levied by the regular taxing agencies against the base benefits to the lands and buildings within such district as shown by the then current complete roll of such properties and the determined benefits thereto as therefore certified to and filed with such county auditor by the commissioners of such district. When thus levied, the amount of assessment produced thereby shall be added by the general taxing authorities to the general taxes against said lands and collected therewith as a part thereof. If unpaid, any delinquencies in such assessments shall bear interest at the same rate and in the same manner as general taxes and they shall be included in and be made a part of any general tax foreclosure proceedings, according to the provisions of law with relation to such foreclosures. As assessment collections are made, the county treasurer shall credit the same to the funds of such district.

Board to make estimate of costs.

Certify costs.

Levy made by regular taxing agencies.

Levy added to general taxes.

Delinquencies.

Foreclosures.

SEC. 18. In the case of an emergency or disaster not in contemplation at the time of making the annual estimate of costs, declared to be such by resolution of such board, the diking commissioners may incur additional obligations and issue valid warrants therefor in excess of such estimate, in the manner provided by law for issuance of warrants by diking districts and the servicing thereof, and all such warrants so issued shall be valid and legal obligations of such district and its taxable lands and improve-

Emergency.

Additional obligations and warrants.

ments as shown upon the then current roll of said district filed with the county auditor.

Process
exclusive
upon
adoption.
Exception.

SEC. 19. Any diking district operating under this act shall not use the processes provided for raising revenue under any other law: *Provided*, That any such other method of raising revenue provided by law may be used concurrently for the sole purpose of extinguishing indebtedness incurred before the district adopts the procedure of this act, and no funds raised hereunder shall be used to pay such prior indebtedness.

Partial
invalidity.

SEC. 20. Should any section or provision of this act be declared unconstitutional or ineffectual, such action shall not affect or nullify any other provision or section thereof.

Emergency.

SEC. 21. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 5, 1951.

Passed the Senate March 4, 1951.

Approved by the Governor March 9, 1951.

CHAPTER 46.

[H. B. 52.]

COMMISSION TYPE CITIES—SALARY OF MAYOR.

AN ACT relating to cities organized under the commission form of government; and amending section 35.17.110, R.C.W., and declaring an emergency.

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

Amendment.

SECTION 1. Section 35.17.110, R.C.W., as derived from section 4, chapter 25, Laws of 1943, is amended to read as follows:

In cities having a population of two thousand five