

CHAPTER 75.

[H. B. 287.]

CANALS AND DITCHES—SAFEGUARDS.

AN ACT relating to the public health and safety; authorizing the establishment of improvement districts by cities or towns, counties, and irrigation districts for the safeguarding of the public from the hazards of open canals or ditches; declaring an emergency; amending section 10, chapter 162, Laws of 1917, as last amended by section 1, chapter 171, Laws of 1941, and RCW 87.36.010; amending section 35, chapter 192, Laws of 1951, as amended by section 3, chapter 152, Laws of 1953, and RCW 36.88.350; amending section 1, chapter 152, Laws of 1953 and RCW 36.88.015; amending section 2, chapter 144, Laws of 1957 and RCW 35.43.040; adding a new section to chapter 35.43 RCW; adding a new section to chapter 35.44 RCW; adding three new sections to chapter 36.88 RCW; and adding a new section to chapter 87.36 RCW.

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

SECTION 1. Section 2, chapter 144, Laws of 1957 and RCW 35.43.040 are each amended to read as follows:

RCW 35.43.040 amended.

Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those listed below to be constructed, reconstructed, repaired, or renewed and the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

Authority generally.

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, rema-

Local im-
provements—
Authority
generally.

cadamizing, graveling, regravelling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational or playground facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto. In distributing assessments in the case of trunk sewers there shall be levied against the property lying between the termini of the improvement and back to the middle of the blocks along the marginal lines of the area improved such amounts as would represent the reasonable cost of a local sewer and its appurtenances suited to the requirements of the property, and the remainder of the cost and expense of the improvement shall be distributed over and assessed against all of the property within the boundaries of the district: *Provided*, That if it is necessary to construct any such sewer in an easement across private property as a part of a sewer system improvement the authority to assess for special benefits conferred by the improvement shall be the same as if such sewer were constructed in a public street;

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services. In distributing assessments in the case of trunk water mains there shall be levied against the property lying between the termini of the improvement and back to the middle of the block along the marginal lines of the area improved, such amounts as would represent the reasonable cost of a local water main and appurtenances suited to the requirements of the property, and the remainder of the cost and expense of the improvement shall be distributed over and assessed against all of the property within the boundaries of the district: *Provided*, That if it is necessary to construct any such water main in an easement across private property as a part of a water main system improvement the authority to assess for special benefits conferred by the improvement shall be the same as if such water main were constructed in a public street;

(14) Fences, culverts, syphons, or coverings or any other feasible safeguards along, in place of, or over open canals or ditches to protect the public from the hazards thereof. In distributing assessments in the case of any improvements within this subsection there shall be levied against all property lying within the improvement district such amounts as are required to pay all costs of the improvement, and it is presumed that all residential property and

Safeguards
along or
over open
canals or
ditches.

all land occupied by apartment buildings, trailer parks, and every other structure where persons regularly or from time to time or temporarily reside, and all property in public ownership devoted to the public use, and all places where children congregate for any purpose, and all state granted school land, and federal land subject to such conditions as congress may prescribe, lying within the local improvement is specially benefited by the removal of open canal hazards and subject to assessment therefor: *Provided*, That this shall not prevent other and different land from being included and subject to assessment.

New section.

SEC. 2. There is added to chapter 35.43 RCW a new section to read as follows:

Cities and towns—
Safeguards for open canals or ditches.

Every city or town shall have the right of entry upon all irrigation, drainage, or flood control canal or ditch rights of way within its limits for all purposes necessary to safeguard the public from the hazards of such open canals or ditches, and the right to cause to be constructed, installed, and maintained upon or adjacent to such rights of way safeguards as provided in RCW 35.43.040: *Provided*, That such safeguards must not unreasonably interfere with maintenance of the canal or ditch or with the operation thereof. The city or town, at its option, notwithstanding any laws to the contrary, may require the irrigation, drainage, flood control, or other district agency, person, corporation, or association maintaining the canal or ditch to supervise the installation and construction of such safeguards, or to maintain the same. If such option is exercised reimbursement must be made by the city or town for all actual costs thereof.

New section.

SEC. 3. There is added to chapter 35.44 RCW a new section to read as follows:

Ascertaining assessments.

As an alternative to other methods of ascertaining assessments for local improvements, in a local im-

provement district established for safeguarding open canals or ditches, the district may be sectioned into subdivisions or zones paralleling the canal or ditch, numbered respectively, first, second, third and fourth. Each subdivision shall be equal to one-quarter of the width of the district as measured back from the margin of the canal right of way. The rate of assessment per square foot in each subdivision so formed shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, and fourth, respectively, are related to each other as are the numbers, forty, thirty, twenty, and ten, respectively, and shall be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, and fourth, respectively, and the numbers forty, thirty, twenty, and ten, respectively, shall be ascertained;

(2) The aggregate sum thereof shall be divided into the total cost and expense of the local improvement;

(3) The resultant quotient multiplied by forty, thirty, twenty, and ten, respectively, shall be the respective rate of assessment per square foot for each subdivision.

SEC. 4. Section 1, chapter 152, Laws of 1953 and RCW 36.88.015 are each amended to read as follows:

All counties shall have the power to create county road improvement districts for the construction, installation, improvement, operation and maintenance of street and road lighting systems for any county roads, and subject to the approval of the state highway commission, state highways, and for safeguards to protect the public from the hazards of open canals, flumes, or ditches, and said counties shall have the power to levy and collect special assessments against the real property specially benefited thereby for the purpose of paying the whole or any

RCW 36.88.015
amended.

County road
improvement
districts—
Safeguards
for open
canals or
ditches
authorized.

part of the cost of such construction, installation or improvement together with the expense of furnishing electric energy, maintenance and operation: *Provided*, That no road improvement district shall be created for any such purpose under this chapter unless the property within the proposed district shall be so developed by the construction of permanent urban improvements that the average number of dwelling units or units of business occupancy per one thousand feet of property fronting upon the roads within the area to be so improved shall be at least six: *Provided further*, That said exception shall not apply to improvements for the purpose of protecting against open canal dangers.

New section.

SEC. 5. There is added to chapter 36.88 RCW a new section to read as follows:

Ascertaining assessments.

Whenever a county road improvement district is established for the safeguarding of open canals or ditches as authorized by RCW 36.88.015 the rate of assessment per square foot in the district may be determined by any one of the methods provided in chapter 35.44 RCW for similar improvements in cities or towns, and the land specially benefited by such improvements shall be the same as provided in chapter 35.43 RCW for similar improvements in cities or towns.

New section.

SEC. 6. There is added to chapter 36.88 RCW a new section to read as follows:

Counties—
Right of
entry for
safeguarding
open ditches.

Every county shall have the right of entry upon every irrigation, drainage, or flood control canal or ditch right of way within its boundaries for all purposes necessary to safeguard the public from the hazards of open canals or ditches, including the right to clean such canals or ditches to prevent their flooding adjacent lands, and the right to cause to be constructed and maintained on such rights of way or adjacent thereto safeguards as authorized by RCW 36.88.015: *Provided*, That such safeguards must not

unreasonably interfere with maintenance of the canal or ditch or with the operation thereof.

SEC. 7. There is added to chapter 36.88 RCW a **New section.** new section to read as follows:

Any county, establishing a road improvement district for canal protection, notwithstanding any laws to the contrary, may require the district, agency, person, corporation, or association, public or private, which operates and maintains the canal or ditch to supervise the installation and construction of safeguards, and must make reimbursement to said operator for all actual costs incurred and expended. **Operator to supervise—Reimbursement.**

SEC. 8. Section 35, chapter 192, Laws of 1951, as amended by section 3, chapter 152, Laws of 1953, and RCW 36.88.350 are each amended to read as follows: **RCW 36.88.350 amended.**

After the completion of any construction or improvement under this chapter, all maintenance thereof shall be performed by the county at the expense of the county road fund, excepting furnishing electric energy for and operating and maintaining street and road lighting systems: *Provided*, That maintenance of canal protection improvements may, at the option of the board of commissioners of the county, be required of the irrigation, drainage, flood control, or other district, agency, person, corporation, or association maintaining the canal or ditch. If such option is exercised reimbursement must be made by the county for all actual costs of such maintenance. **Maintenance—Expense.**

SEC. 9. Section 10, chapter 162, Laws of 1917, as last amended by section 1, chapter 171, Laws of 1941, and RCW 87.36.010 are each amended to read as follows: **RCW 87.36.010 amended.**

Any desired special construction, reconstruction, betterment or improvement or purchase or acquisition of improvements already constructed, for any **Local improvement districts within irrigation districts—Petition.**

**Safeguarding
open ditches.**

authorized district service, including but not limited to the safeguarding of open canals or ditches for the protection of the public therefrom, which are for the special benefit of the lands tributary thereto and within an irrigation district may be constructed or acquired and provision made to meet the cost thereof as follows:

The holders of title or evidence of title to one-quarter of the acreage proposed to be assessed, may file with the district board their petition reciting the nature and general plan of the desired improvement and specifying the lands proposed to be specially assessed therefor. The petition shall be accompanied by a bond in the sum of one hundred dollars with surety to be approved by the board, conditioned that the petitioners will pay the cost of an investigation of the project and of the hearing thereon if it is not established. The board may at any time require a bond in an additional sum. Upon the filing of the petition the board with the assistance of a competent engineer, shall make an investigation of the feasibility, cost, and need of the proposed local improvement together with the ability of the lands to pay the cost, and if it appears feasible, they shall have plans and estimate of the cost prepared. If a protest against the establishment of the proposed improvement signed by a majority of the holders of title in the proposed local district is presented at or before the hearing, or if the proposed improvement should be found not feasible, too expensive, or the lands to be benefited insufficient security for the costs, they shall dismiss the petition at the expense of the petitioners.

New section.

SEC. 10. There is added to chapter 87.36 RCW a new section to read as follows:

**Safeguarding
local ditches—
Assessments.**

Whenever a local improvement district is established within an irrigation district for the safeguarding of the public from the dangers of open canals

or ditches the rate of assessment per square foot in the local district may be determined by any of the methods provided for assessment of similar improvements in cities or towns in chapter 35.44 RCW, and the lands specially benefited by such improvements shall be the same as provided in chapter 35.43 RCW for similar improvements in cities or towns.

SEC. 11. 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. Emergency.

Passed the House February 26, 1959.

Passed the Senate February 25, 1959.

Approved by the Governor March 3, 1959.

CHAPTER 76.

[H. B. 109.]

CITIES—COUNCIL-MANAGER PLAN.

AN ACT relating to cities and towns; amending section 3, chapter 337, Laws of 1955 and RCW 35.18.020; amending section 1, chapter 271, Laws of 1943 and RCW 35.18.230; amending section 11, chapter 271, Laws of 1943 and RCW 35.18.180; amending section 23, chapter 337, Laws of 1955 and RCW 35.18.250; and amending section 12, chapter 337, Laws of 1955 and RCW 35.18.270.

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

SECTION 1. Section 3, chapter 337, Laws of 1955 and RCW 35.18.020 are each amended to read as follows:

RCW 35.18.020 amended.

The number of councilmen shall be in proportion to the population of the city or town indicated in its petition for incorporation and thereafter shall be in proportion to its population as last determined by the state census board as follows:

Number of councilmen—
Terms—
Vacancies.

(1) A city or town having not more than two thousand inhabitants, five councilmen;