

board of state road commissioners, after deducting the cost of said survey, shall expend one-half of [the] money remaining in said appropriation from the mouth of Greenwater river to the summit of Cascade mountains, and the other half from the summit of Cascade mountains to the west end of county road from Yakima up Natchez river.

SEC. 13. That all instruments, camp equipage, materials, tools and supplies now belonging to the State of Washington, and accounted for by previous state road commissions, if not in use upon other state roads, shall be turned over to the commission created by this act and shall be subject to the order of said commission, and by it shall be accounted for to the state when this appropriation is expended.

Outfit of previous road commissions available.

SEC. 14. An emergency exists, and this act shall take effect immediately.

Passed the House March 8, 1897.

Passed the Senate March 11, 1897.

Approved by the Governor March 18, 1897.

CHAPTER CXVII.

[S. B. No. 209.]

RELATING TO ARID LANDS.

AN ACT to amend an act entitled an act accepting the terms of the act of congress, approved August 18, 1894, providing for the reclamation, settlement and disposition of the one million acres of arid land granted therein, making appropriation therefor, and declaring an emergency, approved March 22nd, 1895, and providing further for carrying into effect said grant.

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

SECTION 1. Section 3 of chapter 166 of the Session Laws of 1895 is hereby amended to read as follows: Sec. 3. It shall be the duty of the commissioner of irrigation to examine, or cause to be examined, such of the arid lands within the state belonging to the public domain, that can, with an ex-

Duty commissioner of irrigation.

pense not incommensurate with their value when reclaimed from their aridity, be irrigated, and shall collect data and information concerning the nature of the soil, location and adaptability to cultivation of such lands, and concerning the streams and water that may be used for irrigating the same, and the precipitation each year in the mountains draining into such streams as can be used in irrigating said lands, for the purpose of predicting the probable flow of water in such streams. He shall make, or cause to be made, careful measurements and estimates of the flow of water in all such streams. He shall prepare maps of such arid lands which can be thus irrigated, and plans showing the proposed modes of irrigation, showing the source and quantity of water proposed to be used, and the size and proposed location of the ditches, canals, flumes, pipe lines or reservoirs to be used for conveying or collecting the water upon the lands proposed to be irrigated, and the elevation thereof above said lands; and shall, as construction proceeds of any dams, ditches, canals, flumes, reservoirs, pumping works or any other works for the purpose of irrigation under the provisions of this act, examine and see that all such construction work is done in a substantial manner and in accordance with the approved plans thereof. He shall have power to employ an engineer at a salary not to exceed one hundred dollars per month, and such other assistants and employés to assist him in the discharge of the duties herein prescribed as may be necessary, and shall verify, as herein provided, all claims and applications of any such assistants or employés for their compensation for the services performed by them; and he is further empowered to contract for the construction of ditches or canals, the building of dams and reservoirs, the sinking of artesian wells, the irrigation, reclamation, settlement and sale of said arid lands, and to do and perform any and all things whatsoever necessary to be done in carrying into effect the objects of this act, and he is hereby authorized and directed to make all necessary rules and regulations for carrying out the true intent and spirit of this act. He shall prepare and render to the governor, at the time when other state officers' reports are required to be made, a full and true report of his work re-

Make maps.

Employ engineer.

Contract for construction ditches, canals, etc.

Make report.

garding all matters and duties devolving upon him by virtue of his office, which report shall contain a detailed and itemized statement of all expenses incurred in and arising out of his official duties and those of his assistants and employés, as well in and about his office as in the field.

SEC. 2. Section 4 of chapter 166 of the Session Laws of 1895 is hereby amended to read as follows: Sec. 4. As soon as a map or maps of any of such arid lands proposed to be irrigated, with the plans showing the mode of contemplated irrigation thereof, are completed, he shall from time to time file duplicates of such maps and plans with the secretary of the interior of the United States, and shall, on behalf of the state make application to the said secretary of the interior in accordance with section 4 of said act of congress, approved August 18, 1894, and amendments thereto, and shall take all the necessary steps on behalf of the state to secure a contract binding the United States to donate, grant and patent to this state, or its assigns, the said arid land, and to secure to this state all the benefits and advantages accruing to it under the provisions of the said act.

Map to be filed with secretary interior.

Application to be made for arid land under act August 18, 1894.

SEC. 3. Section 5 of chapter 166 of the Session Laws of 1895 is hereby amended to read as follows: Sec. 5. Whenever the surveys of any particular irrigation system, in the opinion of said commissioner, prove the construction thereof feasible, he is hereby authorized to advertise for bids for the construction of the same in sections or subdivisions. Such bids shall be advertised in three papers in this state once a week for five consecutive weeks, one of said papers to be published in the county where said contemplated irrigation system is located, or if located in more than one county, then and in that case to be published in a newspaper in the county containing the greatest length of the main canal of such irrigation system, the other two papers to be published in the cities of the first class in this state.

Advertise for bids for construction.

SEC. 4. Section 6 of chapter 166 of the Session Laws of 1895 is hereby amended to read as follows: Sec. 6. All construction work in the reclamation of arid land, by whatever mode that may have been determined upon by said

All construction work paid for in water rights.

commissioner of irrigation to adopt, for any particular irrigation system to be undertaken by him or under his direction and control shall be paid for in water rights or in lands so reclaimed at the price to be fixed as hereinafter provided for, and all irrigation systems, the construction of which are undertaken by or under the direction and control of said commissioner of irrigation, shall be numbered consecutively in the order they are undertaken, beginning with number one, and in all records and accounts kept of them, shall be identified by reference to their respective numbers.

Irrigation systems to be numbered.

SEC. 5. Section 7 of chapter 166 of the Session Laws of 1895 is hereby amended to read as follows: Sec. 7. On the day stated in the advertisement for bids, during which all bids will be opened between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, the governor, the attorney general or his assistant, and the commissioner of irrigation shall meet and examine all bids made and filed in accordance with the published advertisements for bids, and proceed to award the contract to the lowest and best bidder or may reject all bids and authorize said commissioner of irrigation to proceed with the construction by days' labor. All such labor to be paid for in lands or water rights as provided herein for the payment of contracts for construction. A record shall be kept by such commissioner of irrigation showing the names of all the bidders and the amount of their bids, which record shall be signed by said state officer.

Bids examined.

Contract awarded.

Record kept.

SEC. 6. Section 8 of chapter 166 of Session Laws of 1895 is hereby amended to read as follows: Sec. 8. The successful bidder for any contract shall within ten days furnish a good and sufficient bond for the successful prosecution of said work and fulfillment of his contract, in a sum to be named by said commissioner of irrigation not less than double the amount of his contract, such bond to be approved by said commissioner: *Provided*, That in the event any contractor prefers not to enter into a bond for the fulfillment of his contract, but in lieu thereof stipulates that he will complete his contract and not hold said commissioner of irrigation or the state liable for any work

Contractor's bond.

Nature of contract when no bond.

done by him under his contract until after said work is approved and received by said commissioner in writing, no bond need be required of him, but he must commence work upon five days' notice in writing from said commissioner and diligently prosecute same to the satisfaction of said commissioner and have it completed within the time specified in his contract: *Provided further*, That for good reason an extension of time may be granted contractors by said commissioner not to exceed ninety days. Time extended.

SEC. 7. Whenever a contractor who has given a bond as required in the foregoing section requests it, the said commissioner of irrigation shall, upon monthly estimates furnished him by his engineer, issue to such contractor a certificate stating the amount due him, which in no event shall be for more than eighty per cent. of the estimates of said engineer, which certificate shall be redeemable in land or water rights as herein provided for. More than one certificate may be issued upon the same estimate: *Provided*, That the total aggregate amount called for by such certificates shall not exceed eighty per cent. of such estimates. Certificates for the remaining twenty per cent. shall be issued when said work is completed and received by said commissioner of irrigation: *Provided further*, That it is hereby made the duty of said commissioner of irrigation to satisfy himself that all outstanding claims against any contractor's work done under his supervision and control shall have been fully discharged, or before settling in full with any contractor on such work. All claims for labor or supplies shall be filed with said commissioner of irrigation within thirty days after the last item of such labor or supplies have been furnished. Partial payments, when and how made.

SEC. 8. The certificate provided for in the foregoing section shall be of the following form:

IRRIGATION DEPARTMENT OF THE STATE OF WASHINGTON.

I,, commissioner of irrigation, do hereby certify that is entitled to dollars' worth of land, together with the water right thereunto belonging. Certificate, form of.

Given under my hand this day of

IRRIGATION DEPARTMENT OF THE STATE OF WASHINGTON.

I,, commissioner of irrigation, do hereby certify that is entitled to dollars' worth of water rights.

Given under my hand this day of

.....,
Commissioner of Irrigation.

Such certificates shall in no wise ever be construed as creating a debt against the state, and they shall be redeemable only in land or water rights. All certificates shall be numbered in the order in which they were issued, and an accurate record of the same kept. Said certificates, or the debt of which they are evidence, shall bear no interest whatsoever; and said certificates shall be transferable by endorsement and receivable by said commissioner of irrigation from any person who presents the same for redemption. Upon the back of all such certificates sections Nos. 8 and 9 of this act shall be printed in full.

Appraisalment
of existing
systems.

SEC. 9. When construction of an irrigation system is undertaken by or under the direction and control of the commissioner of irrigation, as authorized by this act, it shall be his duty to appraise, or cause to be appraised, the lands covered by and included in such irrigation systems; the total appraisalment of all the land and water rights not to exceed the estimated cost of construction of that particular irrigation system, with twenty per cent. added for possible contingencies. All such appraisements shall be made in tracts of twenty acres, and shall be recorded in a book kept for that purpose, which shall be open to public inspection. And all certificates as hereinbefore authorized issued on account of labor or supplies furnished him shall be receivable in payment for lands or water rights.

Certain lands
included.

SEC. 10. Whenever an irrigation system provided for in this act covers lands which are no part of the public domain, and title to which cannot be acquired by the state under said acts of congress, they may nevertheless be reckoned in the estimates for costs of construction, and water rights be sold to the owners of the same at the estimated cost of construction, with twenty per cent. added. And said commissioner of irrigation is hereby authorized to enter into contract with such owners to furnish water rights

as aforesaid, conditioned upon the completion of such irrigation system.

SEC. 11. The commissioner of irrigation is hereby given the power and authority to enter upon any lands owned by the state, or by any corporation or private owner, and make all surveys necessary to be made for the purpose of locating any canal, ditch, pipe line, flume, reservoir, or other irrigation works to be undertaken by the state by and under the direction and control and supervision of said commissioner of irrigation. The general laws of this state relating to irrigation districts, counties, municipal corporations, or other corporations, empowering said irrigation districts, counties, municipal corporations, or other corporations to secure right-of-way by condemnation proceedings in the court, are hereby extended to apply to the state in securing right-of-way to construct and maintain irrigation canals, ditches, flumes, pipe lines, or other irrigation works. Said commissioner of irrigation, on behalf of and in the name of the state, is hereby authorized in like manner to condemn and appropriate any water right owned or claimed by any private owner or corporation; but in assessing the value of said right, due regard shall be given any work which has been done to secure said water right. The general law relating to condemnation proceedings to secure right-of-way shall apply in all proceedings to condemn water rights. It is hereby made the duty of the prosecuting attorney in each county in which condemnation proceedings are to be brought, as provided in this section, to commence and prosecute said condemnation proceedings in the superior court of this state, as provided by law, whenever the said commissioner shall request said prosecuting attorney so to do, and has furnished the necessary data and information to enable said officer to commence and prosecute said proceeding.

SEC. 12. When all lands acquired by the state by reason of its reclamation under any particular irrigation system, as herein provided for, and all water rights are disposed of, the state shall exercise no further ownership or control over such irrigation system, and the same shall become the property of the owners of the lands covered or reclaimed

Commissioner has authority to enter any premises for certain purposes.

Condemnation.

Control state lands so included.

thereby: *Provided*, That so long as the state has lands or water rights not disposed of under any such irrigation system, the said commissioner of irrigation shall, if he deems it to the best interest of the state, have absolute control over the same, and all persons owning lands or water rights, or who have contracted for water rights under such irrigation system, shall pay an annual charge per acre, which in the aggregate shall not exceed the annual cost of maintenance, with twenty per cent. added. In the discretion of said commissioner, such charge may be paid in labor necessary to maintain such irrigation system, or a part in labor and the balance in cash: *Provided further*, That after said irrigation system has passed from under the control of the state and into the control of the owners of the lands thereunder as herein provided, the management thereof shall be vested in a board of five directors, who shall be elected by the owners of said lands, at an annual meeting to be held for that purpose on the first Monday in March of each year. Such meeting to be held at a place to be stated in a notice which must be posted in three public places under such irrigation system, for at least twenty days before the date of such meeting, and advertised for three consecutive weeks in a newspaper published in the county in which such irrigation system is located. At such election each land owner shall vote the number of acres owned by him, as shares of stock are voted in annual meetings of private corporations, and a majority of all the acres embraced in and covered by any such irrigation system shall constitute a quorum, and the persons voted for at such meeting for the office of director receiving a majority of such acreage so represented, shall be declared elected.

Control vested
in board of
directors.

Meetings
of board.

Notice of the
first election.

SEC. 13. The notice of the first election shall be given as herein provided for, by said commissioner of irrigation, within five days after the state has contracted for the sale of its remaining lands or water rights, and conveyances shall not be executed and delivered until after the election of such board of directors, as herein provided for, has been elected and qualified. Such board of directors so elected shall hold office until after their successors are elected at

the first regular meeting following, to be held as herein provided for on the first Monday in March of each year.

SEC. 14. Said board of directors shall elect a president ^{Officers of board.} from their own number who shall preside over all meetings of the board and all annual meetings herein provided for; a secretary, who shall keep a record of all meetings of the board of directors and annual meetings herein provided for, and such other records and files as he may be directed by said board to keep; a treasurer, whose duties shall be to receive moneys and pay them out upon orders of the board signed by the president and attested by the secretary. Such board of directors shall thereafter have ^{Powers of board.} the entire management of such irrigation system; shall have the power to sue and be sued, make contracts for supplies and labor for its proper care and maintenance, promulgate rules and regulations for the furnishing and distribution of water, and fix the annual tolls or charges therefor: *Provided*, That the total amount so collected in any one year shall not exceed the total cost of maintenance for the year, including salaries of said board of directors, secretary and treasurer, which shall be fixed at the annual meetings of the owners of land and water rights under such irrigation system as herein provided.

SEC. 15. Before entering upon the duties of their respective offices, each member of such board of directors, the secretary and the treasurer, shall execute a bond in a sum to be fixed by the board of county commissioners of the county or counties in which said irrigation system is located, at any regular session of the board, conditioned for the faithful performance of their respective official duties. All such bonds shall be in the form prescribed by law for the official bonds of county officers, and shall be approved by the county auditor of the county in which the greatest area covered by such irrigation system is located, and remain on file in his office; and shall be accompanied by an oath of office in the same form as now required of county officers in this state. ^{Bond of members of board.}

SEC. 16. Upon the request of a majority of said board of directors, it shall be the duty of the prosecuting attorney ^{Prosecuting attorney legal advisor of board.}

of the county in which any irrigation system herein provided for is located, or in which any portion thereof is located, to act as a legal adviser of the board, and prosecute all actions in his opinion necessary to be brought on behalf of it.

Moneys
recovered.

SEC. 17. All moneys recovered by suit or action from any member of the board of directors, its president, secretary or treasurer, on their official bond, shall be paid by the prosecuting attorney to the county treasurer in which such irrigation system is located, and such county treasures shall give his receipt to such prosecuting attorney for the same, and shall place it to the credit of such irrigation system, specifying it by its number, as shown by the plat of the same, which the commissioner of irrigation is hereby required to file in the office of the county auditor in each county in which any irrigation system herein provided for shall be situate, within ten days after contract for construction has been awarded as herein provided.

Contracts
of sale.

SEC. 18. Said commissioner of irrigation may make contracts for the sale of any land reclaimed prior to the issuance of patent to the state by the United States, and all such contracts shall be in duplicate, the originals to be retained on file in the office of commissioner of irrigation and the duplicate to be delivered to the intending purchaser. But all titles to lands sold by said commissioner of irrigation shall be given by the state, patent to be issued, signed by the governor, attested by the secretary of state and the seal of the state attached.

Proceeds
of sale.

SEC. 19. The proceeds of sales of lands or water rights remaining after all certificates issued on account of construction of any irrigation system have been redeemed, shall be by said commissioner of irrigation paid to the state treasurer and by him kept in a separate fund to be called the "Irrigation Fund," and shall never be used for any purpose except to reimburse the state for expenses incurred in reclaiming such arid lands and for the purpose of reclaiming other desert lands in this state.

Limit of acre-
age salable to
one person.

SEC. 20. The sale of more than forty acres or less than ten acres of land under one irrigation system to one person or corporation is hereby prohibited.

SEC. 21. All agreements entered into by the commissioner of arid lands with individuals or corporations for the reclamation of arid lands as authorized by the act approved March 22, 1895, where lists of the lands intended to be selected and plats of the proposed canal or ditch lines have been filed with the secretary of the interior, are hereby recognized. And the commissioner of irrigation is hereby authorized for and on behalf of the state to comply with the terms of such agreement in conformity with the provisions of said act approved March 22, 1895.

Certain contracts of commissioner recognized.

SEC. 22. For the purpose of carrying into effect the provisions of this act, there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of thirty thousand dollars. Not more than ten thousand dollars of this appropriation to be available for office expenses of said commissioner of irrigation, including the salaries of engineer and his assistant and their expenses while in the field; the remaining twenty thousand dollars to be available only on account of supplies furnished for construction work that may be undertaken by said commissioner of irrigation. And the auditor is hereby directed, upon vouchers duly certified to by said commissioner of irrigation, to audit the same and draw his warrant upon the state treasurer, who shall pay the same.

\$30,000 appropriated.

SEC. 23. The commissioner of arid lands shall on demand of the commissioner of irrigation, after his appointment and qualification, surrender and deliver all records, files and data in his possession by virtue of his said office, taking duplicate receipts therefor, one of said receipts to be certified to as a correct copy by the commissioner of arid lands and remain on file in the office of the commissioner of irrigation.

Passed the Senate March 11, 1897.

Passed the House March 11, 1897.

Approved by the Governor March 19, 1897.