

section shall be plainly written, printed or engraved on each bond so issued.

SEC. 10. Whenever any city has heretofore issued bonds for the purpose of paying the cost and expense of local improvements, or has sold such bonds and paid such cost and expense from the proceeds thereof, such city may, with the consent of the holders of such bonds, exchange for them bonds authorized by this act. Certain bonds may be exchanged.

SEC. 11. Cities may pass general ordinances for the purpose of more effectually carrying this act into effect.

SEC. 12. An emergency exists, and this act shall take effect immediately.

Passed the Senate February 11, 1899.

Passed the House February 25, 1899.

Approved March 14, 1899.

CHAPTER CXXV.

[H. B. No. 147.]

RELATING TO PRIVATE DITCHES AND DRAINS.

AN ACT to provide for laying out and establishing private ditches and drains.

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

SECTION 1. The owner or owners of any land which requires drainage and which is so situated that it is necessary to the proper drainage of the same to construct ditches or drains across the lands of others, may obtain the location and establishment of such ditch or drain across such lands, in the manner provided in this act. Location of ditches.

SEC. 2. The person or persons desiring the location and establishment of such ditch or drain may file in the superior court of the county in which the lands sought to be appropriated are situated, a petition showing the name of the petitioner or petitioners; a description of Petition.

the lands to [be] benefited, and of those over which the ditch would pass, and setting forth the name of every owner, incumbrancer, or other person or party interested in the lands over which said ditch would pass, or any part thereof, so far as the same can be ascertained from the public records of the county. Such petition shall also show the object for which the lands are sought to be appropriated, the necessity for the appropriation, and the length, width and depth of the ditch on the lands of each separate owner, with a description of said ditch, as nearly as practicable; and shall also set out the estimated damage to the lands of each owner to be crossed by such ditch.

Bond.

SEC. 3. The petitioner, or someone in his behalf, shall enter into a bond in the penal sum of one hundred dollars, with two or more sureties, to be approved by the clerk of said court, payable to the State of Washington, conditioned that the petitioner or petitioners will pay all costs and expenses incurred in the proceeding; which said bond shall be filed with the petition.

Viewers.

SEC. 4. Upon the filing of said petition the court shall appoint three viewers, two of whom shall be resident freeholders of said county, and not interested in the result of the proceeding, and the other the county surveyor of the county in which the lands are situated (unless said county surveyor shall be a party in interest, in which case some other competent surveyor shall be appointed in his place who shall receive the same compensation as is allowed by law to county surveyors) who shall, upon a day to be fixed by the court, in the order appointing them, view the lands of the petitioner and the lands which said proposed ditch or drain is to cross, for the purpose of determining: *First*, whether there is a necessity for the establishment of a ditch; and, *second*, the most practicable route for said ditch to run, if the same be necessary. The clerk of said court shall furnish to said viewers a certified copy of the order appointing them, which shall warrant them entering upon the lands described in the petition for the purpose of viewing the same.

SEC. 5. When said viewers shall have made said examination they shall, within ten days after the day appointed by the court for such examination, report to the court, in writing, (filing the same with the clerk of said court) their decision as to the necessity for said ditch and if they deem such ditch necessary, then the county surveyor shall file with such report an accurate description and plat of the proposed ditch, showing the course thereof as recommended by the viewers. The viewers shall also estimate the amount of damage which each separate owner would suffer by reason of the construction thereof.

SEC. 6. Upon the filing of the report of the viewers aforesaid, a summons shall be issued in the same manner as summonses are issued in civil actions, and served upon each person owning or interested in any lands over which the proposed ditch or drain will pass. Said summons must inform the person to whom it is directed of the appointment and report of the viewers; a description of the land over which said ditch will pass of which such person is the owner, or in which he has an interest; the width and depth of said proposed ditch, and the distance which it traverses said land, also an accurate description of the course thereof. It must also show the amount of damages to said land as estimated by said viewers; and that unless the person so summoned appears and files objections to the report of the viewers, within twenty days after the service of said summons upon him, exclusive of the day of service, the same will be approved by the court, which summons may be in the following form:

In the superior court of the State of Washington, for..... county. In the matter of the application of..... for a private ditch.

The State of Washington to.....
 Whereas, on the....day of..... 19.....
 filed his petition in the above entitled court praying that a private ditch or drain be established across the following described lands, to-wit :.....

for the purpose of draining certain lands belonging to said.....
, and whereas, on the....day of....., 19.., Messers
and.....with.....county
 surveyor of.....county, were appointed to view said
 premises in the manner provided by law, and said viewers having,
 on the....day of....., 19...., filed their report in this court,
 finding in favor of said ditch and locating the same upon the fol-
 lowing course:.....
 for a distance of.....upon said land, and of
 a width of.....feet and a depth of.....feet;
 and they further find that said land will be damaged by the estab-
 lishing and construction of said ditch in the sum of \$.....:
 Now therefore, you are hereby summoned to appear within twenty
 days after the service of this summons, exclusive of the day of ser-
 vice, and file your objections to said petition and the report of said
 viewers, with this court; and in case of your failure so to do, said
 report will be approved and said petition granted.

Plaintiff's Attorney.

P. O. Address.....

Service by publication.

SEC. 7. In case any person interested in any of the
 lands to be crossed by such ditch, as aforesaid, does
 not reside in the county, or cannot be found therein,
 or conceals himself so that personal service cannot be
 had upon him, upon proof thereof being made satis-
 factorily to appear to said court, said summons may be
 served by publication, in the same manner and with
 like effect as is done in civil actions: *Provided*, That
 no other or different form of summons shall be re-
 quired for publication than is required for personal
 service.

Hearing.

SEC. 8. Upon the expiration of the time within which
 exceptions may be filed to the report of the viewers
 aforesaid, the court shall set a day upon which the pe-
 tition and the report of the viewers shall be heard and
 considered by the court. In case exceptions have been
 filed by any party or parties, which exceptions must
 have been served upon the petitioner or petitioners
 prior to the hearing, the court shall hear evidence in
 regard thereto, and without a jury, pass upon the
 questions of the necessity for said ditch and the location
 thereof. If the court finds that such ditch is necessary,
 and the route selected is the best and most practicable,
 and that the compensation allowed by the viewers is

Order.

just and reasonable, then the court shall file his findings to this effect and cause an order to be entered approving the petition and report of the viewers. If, within twenty days from the filing of the findings of facts aforesaid, the petitioner or petitioners shall pay into court all the costs and sums awarded to the owner or owners of the land over which said ditch shall pass, a decree shall be entered establishing the same: *Provided*, If any party shall except to the amount of damages found by the viewers, then the amount of such damages shall be tried by jury, unless a jury trial be waived by the parties, in which case trial thereof may be had by the court. Such trial shall be at a regular term of said court, at which a jury shall be present, and shall be conducted and verdict rendered in the same manner as in civil actions: *Provided further*, That it shall not be incumbent on the petitioner to pay into court the amount of the award or awards of said jury, until within twenty days after said verdict shall have been rendered and entered.

SEC. 9. No appeal shall be taken from the finding of the court as to the necessity of such ditch or as to the route thereof until after final judgment or decree is entered: *Provided*, That exceptions shall be taken and allowed to such orders at the time that they are made, and appeal from such orders and from the award of damages shall be taken at the same time. All the provisions of the law in regard to appeals in civil actions shall apply to the proceedings provided for in this act.

SEC. 10. The viewers appointed under the provisions of this act shall receive the sum of two dollars per day for their services, and the county surveyor shall receive such compensation as is allowed by law for like services, the same to be taxed as costs and paid by the petitioner. All other costs shall be the same as in civil actions in the superior court.

SEC. 11. In case the court should not for any reason adopt the report of the viewers, or the same should be deemed insufficient for any reason, the court may ap-

point other viewers whose duties shall be the same as the duties of the viewers first appointed.

Passed the House February 25, 1899.

Passed the Senate March 9, 1899.

Approved March 14, 1899.

CHAPTER CXXVI.

[H. B. No. 533.]

RELATING TO PUBLIC SEWERS AND DRAINS.

AN ACT authorizing cities and towns, other than cities of the first class, to construct sewers and drains within assessment districts, and to levy and collect special assessments and taxes to pay therefor, and declaring an emergency.

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

SECTION 1. That all cities and towns within the state, other than cities of the first class, where such cities are now or may hereafter be empowered to construct sewers or drains, may do so either by the entire city or by assessment districts, as the mayor and council of said city may determine.

SEC. 2. Before letting any contract for the construction of any sewer or drain, or system of sewerage or drainage, the mayor and council shall by ordinance or resolution adopt the plans therefor and shall fix and establish the assessment district, if the same is to be constructed at the expense of a district, and such cities and towns are hereby authorized to charge the expense of such sewer or drain to all the property included within such district which is contiguous or approximate to any street in which any main pipe or lateral pipe of such sewer, drain or sewer system is to be placed, and to levy special taxes upon such property to pay therefor, which assessment and tax shall be levied in accordance with the last general assessment of the property within said district for city purposes.

Cities other than first class.

How determined.

Charge against property.