

CHAPTER 98.

[S. B. 28.]

CONSTRUCTION OF DAMS ACROSS PALIX AND
NIAWAUKUM RIVERS.

AN ACT authorizing the construction of dams for diking and drainage purposes across certain rivers in Pacific County, providing for a hearing thereon and for compensation to persons injured thereby.

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

SECTION 1. Dams to prevent the overflow of lands above the same by tides and to permit the drainage of such lands are hereby authorized to be constructed across the Palix Piver in the west half of section 15, township 13 north, range 10 west, W. M., and across the Niawaukum River in sections 9 and 10, township 13 north, range 10 west, W. M., in Pacific county. Purpose of dams.

SEC. 2. The authority herein given may be exercised by the persons who own the lands bordering upon and along said streams above the location of said dams or by any number of them representing a majority of the foot frontage of property along said streams upon application therefor to the commissioner of public lands and approved by him as hereinafter provided or may be exercised by the state director of highways acting on behalf of the state or by the board of county commissioners of Pacific county acting on behalf of the county, or by such persons, director and board, or any of them, jointly. Bordering land owners.

SEC. 3. Whenever any one or more of the property owners as named in section 2 shall, either severally or jointly with the state director of highways and/or the board of county commissioners of Pacific county, apply to the commissioner of public lands for the right to construct a dam on Palix River or Niawaukum River as herein authorized, and show Director of highways.

County commissioners.

Application,
hearing.

Bond for
damages.

that he or they are the owners of lands bordering upon or along said Palix River or Niawaukum River above the location of said dams, and that the owners of a majority of the foot frontage along said streams join in said petition or waive any objection thereto, the said commissioner shall fix a time for a hearing on such application and shall post notices thereof, or cause notices to be posted, in at least three places on and along the property affected thereby. If after such hearing the commissioner shall be satisfied that the owners of a majority of the lands bordering upon and along said streams desire such dams, or waive any objections thereto, he shall cause the property owner applicants for such right to file a good and sufficient bond in amount to be fixed by him to compensate any person or persons who may claim to be injured by said dams for the damages sustained, or the proportionate amount thereof in case of a joint application by property owners, and the state director of highways and/or the board of county commissioners of Pacific county, and upon the filing of such bond shall grant the applicants the right to construct such dams. In case the application is made by the state director of highways and/or the board of county commissioners of Pacific county without property owners joining in such application, the commissioner of public lands may grant the right to construct such dam or dams without hearing.

Construc-
tion,
character.

Fishways.

Use as public
highway.

SEC. 4. The dams herein authorized shall be built in good and substantial manner to be approved by the commissioner of public lands, and they shall also provide gates or fishways for the passage of fish through the same in a manner to be approved by the state director of fisheries, and shall be subject to the right of the State of Washington or the county of Pacific to use the same for a public highway without compensation to the owners thereof.

The applicant or applicants for a right to construct such dams, and their successors and assigns, shall also be responsible for the safe upkeep and repair of the same: *Provided*, That in case said dam or dams shall be appropriated and used as a public highway by the State of Washington or the county of Pacific, then and in that event the state or county, as the case may be, shall maintain the same.

Claims for
damage.

SEC. 5. If any person owning or having an interest in lands bordering on or along said streams shall believe himself damaged by the construction of such dams, he shall file his claim with the commissioner of public lands not later than six months after the completion and acceptance of such dams. Upon the filing of such claim the commissioner of public lands shall cause an action to be brought in the superior court of Pacific county to ascertain the amount of such damage, and the amount of such damage so ascertained, together with the costs in the suit, shall be liability against the applicant or applicants to whom the right to build such dams was granted, and in case of property owner applicants such claim may be enforced against the bond filed with the commissioner of public lands as above provided and may be enforced against the State of Washington or the county of Pacific in the manner provided by law for the enforcement of claims against the state or any county.

Court
action.

Passed the Senate February 26, 1931.

Passed the House March 10, 1931.

Approved by the Governor March 20, 1931.