

CHAPTER 26.

[S. B. 184.]

DIKING, DRAINAGE AND SEWER DISTRICTS.

AN ACT relating to diking, drainage and sewerage improvement districts; providing for maintenance of improvement systems therein, determination of benefits and apportionment of costs, levy and collection of assessments; and financing of costs by sale of bonds or warrants; repealing section 32, chapter 176, Laws of 1913, as amended; and declaring an emergency.

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

SECTION 1. As used in this act:

- | | Definitions. |
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| (1) "Appraisers" means the Board of Appraisers; | "appraisers." |
| (2) "Supervisors" means the District Board of Supervisors; | "supervisors." |
| (3) "Board" means the Board of County Commissioners; | "board." |
| (4) "Auditor" means the County Auditor; | "auditor." |
| (5) "Treasurer" means the County Treasurer; | "treasurer." |
| and | |
| (6) "maintenance," "maintenance of the system of improvements," "maintenance work," and other terms of similar import, mean and include not merely operating expenses and such upkeep and other work commonly classed as maintenance as shall be necessary to restore and preserve the district's system of improvement and the machinery and equipment operated in connection therewith in the same or as good condition as when originally constructed and installed, but also: (1) the making of such changes in and betterments to the original works, improvements and installations as shall, subject to the approval of the Board, be by the Supervisors deemed necessary to put the system of improvements into such condition that it shall provide adequate drainage and protection from overflow for the lands within the district as contemplated and intended by the original construction and any enlargement and extension thereof thereafter made; | "maintenance." |

and (2) all costs and expenses incident to any determination or redetermination of benefits and apportionment of costs made under the terms of this act.

Estimate of amount for maintenance.

SEC. 2. On or before the first Monday in September in each year the Supervisors of each diking, drainage or sewerage improvement district shall make and file with the Board of the county containing such district, a statement and estimate in writing of the amount required for the maintenance of the system of improvements of said district for the ensuing fiscal year. The Board shall, on or before the first Monday in October next ensuing, levy assessments for the amount of said estimate, or such amount as it shall deem advisable, upon the property within the district and against the state, the county containing such district, and the cities, towns and other municipal corporations within such district in respect of all highways, roads and streets and other lands, improvements, and facilities chargeable therewith owned by them respectively within such district. Said assessments shall be levied in the same proportion as the assessments to pay the original cost of construction of said system of improvements: *Provided however*, That when a determination or redetermination of benefits accruing to the properties within the district from the maintenance of the district's system of improvements or from the maintenance of the district's diking system and drainage system separately shall have been made, as hereinafter in this act provided, then the assessments for maintenance shall be levied in proportion to the benefits accruing to each piece or parcel of property and improvements benefited according to the latest determination of such benefits. Each such levy as made shall be certified by the Auditor to the Treasurer, who shall extend the same upon the district assessment roll.

Board shall levy assessments.

Proportionment of assessments.

Levy certified by auditor to treasurer.

SEC. 3. In maintaining a system of improvements of any such district the Supervisors thereof may at any time, with the approval of the Board and upon determination by such Board that an emergency exists, make expenditures in excess of the last annual maintenance levy theretofore made, which excess amount or amounts shall in such event be included in the maintenance levy for the succeeding year except as otherwise herein provided.

Emergency expenditures.

When, owing to floods, earthquakes, inadequate maintenance or any other cause, it shall be found by the Board, after consideration of the Supervisors' recommendations, plans and specifications and schedules of estimated costs of maintenance work required, that necessary maintenance work will require extraordinary maintenance expenditures and the Board shall have authorized such extraordinary maintenance work to be done as herein provided, the Board may provide that the levy to meet such extraordinary expenditures shall be spread over a term of years and warrants or bonds issued to meet the same. Such term shall not exceed five years if warrants are issued, and shall be either ten or fifteen years if bonds are issued, all as the Board shall determine. The form, tenor, and amount of such bonds and warrants, the number of installments in which the assessments shall be paid, and the time and method of payment of assessments shall be the same as provided in section 17, chapter 176, Laws of 1913, as last amended by section 1, chapter 125, Laws of 1933 (sec. 4422, Rem. Rev. Stat. Supp.), for the original construction cost of a system of improvements: *Provided however*, That said bonds and warrants may be in denominations of one thousand dollars (\$1,000). In case maintenance bonds or warrants to cover extraordinary maintenance expenditures are issued as herein provided, then a maintenance bond or warrant redemption fund for each

Extraordinary maintenance expenditures.

Warrants or bonds.

Maintenance bond or warrant redemption fund.

separate issue of bonds or warrants shall be created into which all moneys derived from assessments levied to pay each issue shall be paid. Such redemption fund shall be applied first to the payment of the interest due upon such bonds or warrants and second to the payment of the principal thereof. After payment in full of principal and interest of any such issue of bonds or warrants, any balance thereafter remaining in any such redemption fund shall be paid into the district's maintenance fund.

Determina-
tion of
special
benefits to
property.

Hearing.

Appointment
of appraisers.

Duties of
appraisers.

SEC. 4. At any time and from time to time, after completion of the original construction of any such district's system of improvements or after the completion of any alteration, reduction, enlargement, addition to, or other improvement of such system not constituting maintenance as herein defined, the board may upon their own initiative, or upon petition filed by at least five owners of property within the district subject to assessments for maintenance shall, fix a date for and hold a hearing at the county seat for the purpose of determining or redetermining the special benefits accruing from the maintenance of the district's system of the improvements to all property benefited thereby. At or within two weeks of the time of fixing the date for such hearing the Board shall appoint three qualified appraisers, at least one of whom shall be a resident of the county in which said district is situated, who shall qualify as provided in section 25, chapter 176, Laws of 1913, as amended by section 30, chapter 130, Laws of 1917 (sec. 4430, Rem. Rev. Stat.). Thereupon said appraisers shall proceed immediately to carefully examine the district's system of improvements and the public and private property within the district, and fairly, justly and equitably determine and apportion the special benefits which will accrue from the maintenance of the district's system of improvements to each piece or parcel of privately and pub-

licly owned land, together with the buildings and other permanent improvements thereon, and to the state, county, cities, towns and other municipal corporations for their roads and streets and other property within the district. The fact that any such property shall be exempt from general taxes shall not exempt the same from the provisions hereof.

Exemptions from general taxes not applicable.

SEC. 5. The appraisers shall carefully consider and take into account all factors, situations and conditions which lawfully may be taken into consideration as bearing upon and determining such benefits and to that end may make such investigations, hold such hearings, and receive such evidence as they may deem proper and shall file their sworn report, with a complete schedule of all property within the district and the special benefits determined by them as accruing to each piece and parcel thereof, not less than twenty days prior to the date fixed for the hearing by the Board.

Appraisers shall consider all factors.

Investigations and hearings.

Report.

SEC. 6. Notice of such hearing shall be given by publication in the official county newspaper and in such other newspaper published in or near such district as the Board may in their discretion direct, once a week for two consecutive weeks, the last publication of which shall be not less than seven nor more than fourteen days prior to the date of said hearing. Also, the Board shall serve by mail, at least ten days before such hearing, upon the Commissioner of Public Lands of the state two copies of the published notice of such hearing together with a statement showing the amount of benefits determined by the appraisers in respect of each parcel of state, school, granted or other lands owned by the state in such district, and shall similarly serve notice of such hearing upon the Director of Highways, with a statement showing the amount of benefits determined by the appraisers in respect of any state primary or secondary highways within the district.

Notice of hearings.

Service on commissioner of public lands.

Combined diking and drainage districts.

Separate determinations of benefits.

SEC. 7. In a district which functions both as a diking and a drainage improvement district, the appraisers, if so directed in the order of the Board appointing them, shall determine separately, in accordance with section 4 hereof, the special benefits accruing to the various properties within the district from the maintenance of the diking system and from the maintenance of the drainage system, and in such case their report shall contain separate schedules of the respective benefits accruing from the maintenance of the diking and drainage systems of improvement considered separately and, so far as may be, independently of each other.

Extraordinary maintenance expenditures.

Hearing and appointment of appraisers.

Additional duties of appraisers.

SEC. 8. Whenever the Board shall provide that a levy to meet extraordinary maintenance expenditures shall be spread over a term of years and warrants or bonds issued as provided in section 3 hereof, said Board shall fix a date for and hold a hearing and appoint appraisers as provided in section 4 hereof. Said appraisers, in addition to discharging the duties imposed upon the appraisers by sections 4 and 5, shall: (1) apportion the estimated costs of such extraordinary maintenance work to the properties within the district in proportion to the benefits accruing to said properties from the maintenance of the district's system of improvements as determined by them; and (2) file a complete schedule of said apportionment of costs with the Board.

Objections to appraisers' report.

Time of filing objections.

SEC. 9. At the hearing upon the report of the appraisers, which may be adjourned from time to time until finally completed, the Board shall carefully examine and consider the special benefits and the apportionment of estimated costs determined by the appraisers and reported in the schedule or schedules, and any objections thereto which shall have been made in writing and filed with the Board on or prior to ten o'clock a. m. of the date fixed for

such hearing. Each objector shall be given reasonable time and opportunity to submit evidence and be heard on the merits of his objections. At the conclusion of such hearing, the Board shall so correct, revise, raise, lower, change or modify such schedule or schedules, or any part thereof, or strike therefrom any property not specially benefited, as to said Board shall appear equitable and just. The Board shall cause the clerk of the Board to enter on each such schedule or schedules all such additions, cancellations, changes and modifications made by it.

Hearing on objections.

Board may modify.

SEC. 10. When the Board shall have determined that the schedule or schedules of benefits and/or apportionment of costs as filed or as changed and modified by it are fair, just and equitable and, if estimated costs have been apportioned, that said benefits equal or exceed said costs apportioned, the members of the Board approving the same shall sign said schedule or schedules and cause the clerk of the Board to attest their signatures under his seal, and shall enter an order in the journal approving and confirming the final determination of such benefits and apportionment of costs and all proceedings leading thereto and in connection therewith. If separate schedules be established for maintenance of the diking system and of the drainage system, the Board shall by order establish two separate maintenance funds, one for the maintenance of the diking system and one for the maintenance of the drainage system.

Approval of schedules by board.

Separate maintenance funds for combined districts.

SEC. 11. Upon the approval and final determination of benefits the Auditor shall immediately prepare a completed roll thereof, which shall contain a copy of the order of the Board approving and confirming said benefits as finally determined, and shall deliver said roll to the Treasurer. Said benefits shall be the basis for the apportionment and collection of maintenance levies thereafter made by the Board.

Roll.

Levy against property benefited.

SEC. 12. Upon the approval and final determination of the apportionment of estimated costs of extraordinary maintenance expenditures as provided in sections 8 and 9 hereof, the Board shall levy the amounts so apportioned against all the properties benefited and the amounts assessed against the state, county, cities and towns, and other municipal corporations benefited, and the Auditor shall immediately prepare a completed roll thereof, which shall contain a copy of the order of the Board approving and confirming said apportionment of estimated costs as finally determined and fixing and levying the assessments therefor, and shall deliver said roll to the Treasurer for collection in accordance with the order of the Board.

Roll.

Board shall order work done.

SEC. 13. The Board shall thereupon enter an order authorizing the contemplated extraordinary maintenance work to be done and authorizing the issuance of temporary construction warrants to pay the cost of said work as it progresses, which warrants may bear interest at such rate of interest as the Board shall determine but not in excess of six per cent (6%) per annum. Bonds or warrants to pay the costs of such extraordinary maintenance may be issued and sold at one time or from time to time and in such series and amounts as may be found practicable and as determined by the Board.

Temporary construction warrants.

Interest.

Board's decision on objections appealable.

SEC. 14. The decision of the Board upon any objections to the determination of benefits and/or apportionment of costs and/or the levy of the assessments therefor, made within the time and in the manner prescribed in section 9 hereof, may be reviewed by appeal to the Superior Court of the county in which the district is situated and thereafter to the Supreme Court within the time and in the manner and upon the conditions, so far as applicable, provided in section 1, chapter 157, Laws of 1921 (sec. 4436, Rem. Rev. Stat.), with respect to appeals from

the Board's apportionment of the cost of construction of the district's system of improvements. The provisions of section 2, chapter 157, Laws of 1921 (sec. 4437, Rem. Rev. Stat.), shall be controlling as to the regularity, validity, and conclusiveness of all the proceedings hereunder.

Appeal from board's apportionment of costs.

SEC. 15. Whenever, after the determination of special benefits accruing from the maintenance of the district's system of improvements, it shall appear to the Board from a petition filed by the affected property owner or owners or otherwise, that by reason of permanent improvements or additions made, removed, abandoned or destroyed by fire or other casualty, or of other changes in the character or condition of the property, the benefits theretofore determined in respect of any one or more pieces or parcels of property are no longer fair, just and equitable, then the Board shall hold a hearing thereon at the county seat at the time of equalization of the real property assessment and shall give notice thereof as in section 6 hereof provided.

Change in conditions affecting special benefits.

Hearing.

SEC. 16. At such hearing, which may be adjourned from time to time as may be necessary to give all persons interested or affected a reasonable opportunity to be heard, and after consideration of all evidence offered and all factors, situations and conditions bearing upon or determinative of the benefits accruing and to accrue to such pieces or parcels of property, the Board shall correct, revise, raise, lower, or otherwise change or confirm the benefits as theretofore determined, in respect of such pieces or parcels of property, as to it shall seem fair, just and equitable under the circumstances, and thereafter such proceedings shall be had with respect to the confirmation or determination of the benefits and making and filing of a roll thereof, as are in sections 9, 10 and 11 hereof provided. Any property owner affected by any change thus made

Board may revise benefits.

Filing of roll.

in the determination of benefits accruing to his property who shall have appeared at the hearing by the Board and made written objections thereto as provided in section 9 hereof, may appeal from the action of the Board to the Superior Court and thence to the Supreme Court, within the time, in the manner and upon the conditions, so far as applicable, provided in section 1, chapter 157, Laws of 1921 (sec. 4436, Rem. Rev. Stat.), with respect to appeals from the order of the Board confirming the apportionment of the original cost of construction.

Appeal.

Laws made
a part of act.

SEC. 17. The provisions of sections 18 and 23, chapter 176, Laws of 1913, as respectively amended by sections 24 and 28, chapter 130, Laws of 1921 (secs. 4423 and 4428, Rem. Rev. Stat.), section 22, chapter 176, Laws of 1913, as last amended by section 5, chapter 157, Laws of 1921 (sec. 4427, Rem. Rev. Stat.), section 9, chapter 46, Laws of 1923 (secs. 4435-3 and 4435-4, Rem. Rev. Stat.), and section 11, chapter 46, Laws of 1923 (secs. 4439-3 to 4439-6, incl., Rem. Rev. Stat.), as amended by section 2, chapter 125, Laws of 1933 (sec. 4439-2, Rem. Rev. Stat. Supp.), shall be deemed and hereby are made a part of this act insofar as they may be applicable hereto, except that the unpaid assessments or installments thereof, which may have been levied for extraordinary maintenance costs as provided in section 12 hereof, shall bear interest at the rate of six per cent (6%) per annum: *Provided however,* That when the bonds or warrants which shall have been issued to meet such extraordinary costs shall bear an interest rate of less than six per cent (6%) per annum, then the rate of interest on such unpaid assessments or installments thereof shall be reduced on and from the first day of January next following the date of issuance of said bonds or warrants to the rate of interest on said bonds or warrants.

Interest on
unpaid
assessments.Interest on
bonds for
extraordi-
nary costs.

SEC. 18. Section 32, chapter 176, Laws of 1913, as last amended by section 2, chapter 38, Laws of the Extraordinary Session of 1933 (sec. 4440, Rem. Rev. Stat.), and all other acts or parts of any act in conflict herewith are repealed. Repealing clause.

SEC. 19. The adjudication of invalidity of any section, clause or part of a section of this act shall not impair or otherwise affect the validity of this act as a whole, or any other part hereof. Partial invalidity.

SEC. 20. This act is necessary for the immediate support of the state government and its existing institutions and shall take effect immediately. Emergency.

Passed the Senate February 21, 1949.

Passed the House February 19, 1949.

Approved by the Governor February 24, 1949.

CHAPTER 27.

[H. B. 118.]

FLOOD CONTROL.

AN ACT relating to flood control, providing for contribution by the state to a joint state-county-federal project for flood control on the Green River and making an appropriation.

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

SECTION 1. The State of Washington hereby declares its intention to participate jointly with the Federal government and King County in financing the construction by the Federal government of the Eagle Gorge Dam Flood Control Reservoir Project now approved and recommended by the Chief of Engineers United States Army. The state hereby undertakes to contribute one million five hundred thousand dollars to said project, contingent upon contribution by King County of five hundred thousand dollars and the adoption and authorization of the project by Congress and the making of a Federal appropriation therefor. State shall aid in financing Eagle Gorge Dam Project.

Amount.

Contingency.