

Excess re-
funded on
demand.

Transferred
to general
fund.

Right of
action.

and expense of such improvement, in excess of the total sum required to defray all the expenditures by such municipal corporation on account thereof, shall be refunded, on demand, to the payers into such fund. Each such payer shall be entitled to such proportion of such excess as his original assessment bears to the entire original assessment levied for such improvement. Such municipal corporation may, after one year from the date on which the last installment becomes due, transfer any balance remaining on hand to the general fund of such municipal corporation, but shall, notwithstanding such transfer remain liable for the refund herein provided for until such refund shall have been made, unless the actual cost involved in making such refund shall exceed the excess in such fund.

Such demand shall be made in writing to the treasurer of such municipal corporation. No action shall be commenced in any court to obtain any such refund, except upon such demand, and, in all cases where the assessment roll shall have been filed with the treasurer of such municipal corporation for collection on or after the day this act shall take effect, until ninety days after making such demand, and in all cases where such assessment roll has heretofore been filed for collection, until six months after making such demand in accordance herewith. No excess shall be recovered in any action where the excess in the fund does not average the sum of one dollar in favor of all payers into such fund.

Passed by the House March 8, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 109.

[H. B. 313.]

RELATING TO GAME.

AN ACT for the protection of certain game birds, and beaver in the State of Washington, defining the closed season, and fixing penalties for the violation thereof.

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

[See note at
end of
chapter.]

SECTION 1. Every person who shall within the State of Washington hunt for, pursue, take, kill or injure any

partridge, or any variety of quail, chinese, ring-neck, Hungarian, golden or English pheasant before the thirtieth day of September, 1912, shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment; and each bird so killed, injured, or destroyed, shall be a separate offense under this act.

SEC. 2. Every person who shall in any manner hunt for, trap, catch, or kill any beaver in any of the counties of the State of Washington until September 30, 1914, or have the same in his possession, alive or dead, shall be fined not less than fifty dollars nor more than one hundred dollars for each beaver so trapped, taken, caught, or killed, and the possession by any person of any untanned beaver skin or hide, shall be *prima facie* evidence of a violation of this section. Beaver.

Passed by the House March 1, 1909.

Passed by the Senate March 9, 1909.

Approved March 13, 1909.

March 23, 1909.

HON. SAM H. NICHOLS, *Secretary of State.*

Dear Sir: I wish to withdraw my approval to section 1, House Bill No. 313, and veto this section. I do this on showing made to me by the chief clerk of the House, Mr. Loren Grinstead, and the secretary of the Senate, Mr. W. T. Laube, and with the advise and approval of the attorney general of the state, who informs me that I am clearly within my rights in this action.

The following is the statement made by Mr. Laube and Mr. Grinstead:

"House Bill 313 as it passed the House applied only to the counties of Garfield, Asotin, Columbia and Walla Walla. The Senate made certain amendments, one of which was to strike out the words in the title and in section 1 as follows: 'counties of Asotin, Garfield, Columbia and Walla Walla,' and insert, in lieu thereof, the words, 'State of Washington,' making the provisions of the bill applicable to the entire state. The House refused to accept the Senate amendment and the conference committee appointed to adjust the differences between the Houses recommended that the Senate recede from this amendment. In preparing the bill for the enrolling clerks, the clerk of the House failed to remove from the face of the bill the Senate amendment attached thereto, and the bill as now enrolled does not express the final vote of the two Houses on House Bill 313."

Section one of H. B. 313 is hereby disapproved.

Respectfully submitted,

M. E. HAY, *Acting Governor.*