

SEC. 7. Every person who shall violate or fail to comply with any rule or regulation adopted and promulgated by the director of agriculture in accordance with and under the provision of this act shall be guilty of a misdemeanor, and for a second and each subsequent violation or failure to comply with the same rule or regulation, shall be punished by imprisonment in the county jail for not less than thirty days or more than one year, or by a fine of not less than \$100.00, or more than \$1,000.00, or by both such fine and imprisonment.

Violations
and penalty.

SEC. 8. This act shall not be construed as repealing or limiting any of the provisions of existing laws touching on any of the matters herein referred to, but shall be deemed to be supplemental thereto.

Scope of act.

Passed the House, March 2, 1921.

Passed the Senate, March 7, 1921.

Approved by the Governor March 16, 1921.

CHAPTER 106.

[H. B. 139.]

DISTRIBUTION OF WATER FOR IRRIGATION PURPOSES.

AN ACT relating to the supervision of the distribution of water for irrigation purposes, the creation of water distribution districts, the providing of a fund therefor and the levying of taxes on the lands included therein.

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

SECTION 1. For the purpose of securing economy, fairness, promptness and accuracy in the distribution of water for the irrigation of agricultural lands the board of county commissioners of any county may create a water distribution district or districts within such county and may enlarge, reduce, consolidate or divide any district already created or

Creation of
water distri-
bution dis-
tricts.

create new districts from time to time in the manner hereinafter set forth.

Petition of
owners of
certificates.

SEC. 2. Whenever two or more owners of certificates of the right to divert waters issued by the state hydraulic engineer, resident upon the land to which said rights are appurtenant, shall petition the board of county commissioners asking that their lands be included either separately or with other lands designated in the petition in a district to be formed for the purposes set forth in section 1 of this act, the board shall fix a time for the hearing of such petition and shall give notice of such hearing as hereinafter provided.

Sufficiency of
petition.

SEC. 3. Said petition shall describe all the land to be included in the district by ownerships, shall give the name and last known address of the owners thereof, the nature, extent and priority of the water right appurtenant to each ownership and the location of the diversion points on the stream from which water for said lands is derived and shall be signed by the petitioners. Attached to such petition shall be a map outlining the present location of the ditches making up the distribution system on the lands to be included in the district, and the written approval of the state hydraulic engineer. Any petition for the modification of any existing district shall follow the same general form in this section outlined.

Notice of
hearing.

SEC. 4. At least thirty days before the day of hearing on said petition to form a district, the board of county commissioners shall give a notice of such hearing by mailing a copy of the same by registered mail to the landowners named in the petition, by posting copies of the notice in three conspicuous places within the proposed district and one at the court house, and by publishing a copy of same in a newspaper of general circulation published in said county for three successive weeks, the date of the

first publication to be at least thirty days before the day of hearing. Said notice shall contain a copy of the petition, omitting the map and written approval of the state hydraulic engineer, shall state the time and place of the hearing, and shall require any person interested to appear at such hearing and show cause in writing, if any he has, why said district should not be formed.

SEC. 5. At the hearing on such petition the board of county commissioners shall determine whether such district shall be created and shall fix the boundaries thereof according to the prayer of the petition or otherwise: *Provided*, That said board shall not include any land which is a part of an established irrigation district; nor shall the board add any lands not described in the petition, unless the record owners thereof have previously been notified, as in this Act provided, and given an opportunity to be heard; nor shall any petition be considered unless the written approval of the state hydraulic engineer be attached thereto. Said hearing may be continued from time to time for the purpose of considering additional land, or giving further notice or for any purpose which in the judgment of the board of commissioners may render a continuance of the hearing necessary. If a district is created the board of county commissioners shall pass a resolution and spread the same upon the minutes of the board declaring such fact, and designating the territory included in such district as "Water Distribution District No., county."

Determina-
tion on
hearing.

SEC. 6. Such district shall be administered by three resident freeholders acting as a board of trustees. Said trustees shall be appointed by the state hydraulic engineer and shall hold office during his pleasure without pay except for actual expenses. Said board of trustees shall have the following duties and powers:

Board of
trustees.

Powers and
duties.

(1) They shall hire for a reasonable wage and for such time as they may determine, a person, or persons if more than one are necessary, to act as ditch master whose duty it shall be to apportion the water to the several lands in the district according to their respective rights.

(2) They shall, when authorized by a vote of the record land owners as hereinafter provided, under the general supervision and control of the state hydraulic engineer, improve the system of the distribution of water for irrigation, and to that end may acquire rights of way for ditches by purchase or by condemnation, and may construct new ditches or repair existing ones, either by contract or by day labor or both, and employ engineering and legal advice.

(3) They shall on or before the second Monday in September make out and file with the board of county commissioners a detailed estimate of the expense of the district for the ensuing year, including any delinquencies in previous taxes as a basis for the annual tax levy against the property in said district.

(4) They shall prosecute or defend such actions as may be necessary to carry out the purposes of this act, and for that purpose may employ counsel.

Tax levy.

SEC. 7. For the purposes herein specified the board of county commissioners shall annually levy on all the taxable property within any district a tax for such district not to exceed ten mills on the dollar unless previously authorized by a vote of the landowners of such district in which case such tax shall not exceed twenty-five mills to be levied and collected as in this Act provided.

Collection of
tax levies.

SEC. 8. The tax levies herein provided for shall be included in the regular tax rolls of the county and shall be extended on said rolls against the property liable therefor the same as other taxes are extended, and shall become a part of the general tax against

such property and shall be collected with the same terms and penalties attached, at the same times, by the same officials, and accounted for the same as other taxes are.

SEC. 9. The taxes collected by the county treasurer shall be held and disbursed as a special fund for such district, and shall be paid out only on warrants issued by the county auditor upon vouchers approved by the board of trustees of said district except that vouchers for the expenses of said trustees shall be approved by the state hydraulic engineer.

Disburse-
ment of
taxes.

SEC. 10. No district shall have authority to contract obligations in any year in excess of the estimated revenues for that year, except in case of an unforeseen catastrophe rendering the distribution system or any part of the same useless or dangerous to life and property.

Limitations
on obliga-
tions.

SEC. 11. Such district, when organized, shall be and constitute a body corporate with power to contract, sue and be sued in its corporate name, and said district shall have the power of eminent domain to be exercised under the provisions of the law giving private corporations such right.

District, a
body cor-
porate.

SEC. 12. The board of trustees of any district may, when in its judgment the best interests of the district will be subserved thereby, submit to the landowners a plan for the improvement of the water distribution system in operation in such district. Such plan shall be outlined under the supervision of the state hydraulic engineer and shall include a general statement of the improvements contemplated together with an estimate of the total cost thereof.

Plans for im-
provement of
district.

SEC. 13. Such plan shall be voted upon by the landowners of the district at a special election called for that purpose. The board of trustees shall by resolution, outline the plan of improvement, fix the time and place of election, establish one or more vot-

Vote on
plans.

ing precincts, appoint the usual election officials and cause a twenty day notice of same to be given as herein provided.

Notice of
election.

SEC. 14. Such notice shall be posted in at least five public and conspicuous places in each precinct in the district, one of which shall be at the polling place, and no other form of notice shall be required. Said notice shall be typewritten or printed and shall contain a general statement of the plan of improvement, including the nature, extent and estimated cost of same, shall state the day and polling place of election and the hours during which the polls shall be open, which shall be from the hour of 9 A. M. to 4 P. M., and shall state that the election shall be by ballot, and shall be signed by a member of the board of trustees.

Conduct of
election.

SEC. 15. Such election shall be conducted in the usual manner. The election officials shall have power to fill vacancies and administer oaths to each other. The ballots shall be of uniform size, shall be typewritten or printed and shall contain the following: "Improvement Yes and Improvement No."; and across the top of the ballot: "Instructions to voters—To vote for the improvement as outlined in the notice of election, place a cross (x) on the line opposite the word 'yes.' To vote against the same, place a cross (x) on the line opposite the word 'no'."

Any person of the age of twenty-one (21) years, being a citizen of the United States and a resident of the State of Washington, and who holds title to land or evidence of title to land embraced within the boundaries of said distribution district, shall be entitled to vote at said election. Additional qualifications for voting required by the general election laws of the state shall not apply: *Provided*, That where the title or evidence of title to community land is held by the husband or the wife, both members of

such community shall be entitled to vote: *Provided, further,* That at any election held under the provisions of this act, an officer or agent of any corporation owning land in the district, duly authorized thereto in writing, may cast a vote on behalf of said corporation; when so voting he shall file with the election officers such written instrument of his authority, and such officer or agent shall be deemed an elector within the meaning of this Act. An elector shall vote in the precinct in which the greater portion of his land, or of the land which he represents, lies. At the close of said election, the officials shall publicly count the votes and make a return of the results forthwith to the board of trustees, which return shall include the used ballots, the original poll list, tally sheets and the appointment and oaths of election officials.

SEC. 16. On the first Monday after said election the board of trustees shall meet as a canvassing board to canvass the results of said election. Said board shall examine the proof of the posting of the notice of election, the appointments and oaths of election officials, the returns of election and shall determine their sufficiency and regularity. Said canvassing board shall then tabulate the votes and determine the result of the election. At the conclusion of the canvass said board shall pass a resolution declaring its findings and conclusions and such resolution shall be final and conclusive upon the world except for fraud or other illegal acts on the part of the canvassing board materially affecting the rights of any owner of land included in the district.

Canvass of election returns.

SEC. 17. If the majority of the votes cast at said special election are in favor of the improvement, the board of trustees shall proceed with said improvement in such manner as they may determine, under the provisions of this Act: *Provided,* That said improvement shall at all times be under the general

To proceed with improvement upon majority vote.

supervision and control of the state hydraulic engineer and all disputes regarding the character, sufficiency and practicability of the improvement shall be settled by that officer and his decision in such matters shall be final and conclusive upon the courts. The expenses of the state hydraulic engineer incurred in the exercise of his duties under this section shall be paid by the district.

Expense of improvement added to levy.

SEC. 18. After said improvements have been completed, the board of trustees shall include in their annual estimate such sums, if any, that may be necessary to maintain said improvements and keep the same in reasonable repair, and the board of county commissioners shall have the power to include the same in the annual levy without a vote of the landowners of the district within the limits prescribed in section seven of this Act.

Scope of act.

SEC. 19. All acts or parts of acts in conflict with the provisions of this act are hereby repealed: *Provided*, That nothing herein contained shall be construed as affecting, superseding, or repealing any of the provisions of law relating to Irrigation Districts.

Partial validity.

SEC. 20. If any section, subdivision, sentence or clause of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act.

Passed the House, February 14, 1921.

Passed the Senate, March 7, 1921.

Approved by the Governor March 16, 1921.