

## CHAPTER CXVIII.

[H. B. No. 179.]

## AUTHORIZING LEVY AND COLLECTION OF SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS IN CITIES OF FIRST CLASS.

AN ACT authorizing the levy and collection of special assessments to pay the cost and expense of local improvements in cities of the first class; declaring such assessments to be a lien against the property assessed therefor; providing for the confirmation of assessment rolls and for the collection of such assessments and the enforcement of the liens thereof, and authorizing the issuance of delinquent assessment certificates against the property assessed for local improvements and the foreclosure of the same.

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

Mode of  
assessments.

SECTION 1. That cities of the first class shall have power by general ordinance to prescribe the mode in which the charge on respective lots and parcels of land shall be assessed and determined for the purpose of special assessments to pay the cost and expense of any local improvements. Such charge when assessed and the assessment roll confirmed by the legislative body of such city in the manner provided, or to be hereafter provided, by ordinance or city charter, shall be a lien upon the property assessed from the time said assessment roll shall be placed in the hands of the officer authorized by law or the charter and ordinances of such city to collect such assessments. Said lien shall be paramount and superior to any other lien or incumbrance whatsoever, theretofore or thereafter created except a lien for assessments for general taxes.

Lien on  
property.

Such lien  
paramount to  
all others.

SEC. 2. Whenever any assessment roll for local improvements shall have been prepared as provided by law, charter or ordinance of any city of the first class, and such assessment roll shall have been confirmed by the council or legislative body of such city, after due and proper notice to the property owner, as provided by law, charter or ordinance, so that said owners of property may have a reasonable opportunity to object to or protest against any assessment, the regularity, and

correctness of the proceedings to order said improvement, and the regularity, validity and correctness of said assessment cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll, prior to the same being confirmed, as aforesaid, and at such time or times as may be prescribed by charter or ordinance. Upon any objections being filed as aforesaid, the council or other legislative body, at the time set for hearing objections to the confirmation of said roll, or at such time as said hearing may be adjourned to, shall have power to correct, revise, change or modify such roll, or any part thereof, and to set aside such roll and order that said assessment be made *de novo*, as to such body shall appear equitable and just, and shall confirm the same, as corrected, by resolution or ordinance, in conformity with the charter of such city. All objections shall state clearly the grounds of objection, and objections to such assessment roll or to the assessment proceedings not made before such council, or other legislative body, as aforesaid, shall be conclusively presumed to have been waived. The decision of the council or other legislative body upon any objections filed as aforesaid may be reviewed by the Superior Court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the city clerk of such city within ten days after the assessment roll shall have been confirmed, as aforesaid, and such notice shall describe the property and the objections of such appellant to such assessment; and, within ten days from the filing of such notice of appeal, the appellant shall file with the clerk of the Superior Court of the county in which such city may be situated a copy of such notice of appeal, a transcript of the assessment roll, of the objections thereto filed by him with the city clerk, as aforesaid, the order confirming such assessment roll, and the record of the council or other legislative body with reference to said assessment, which transcript shall be furnished and cer-

Regularity, validity and correctness not to be contested unless objections have been filed.

Correction and revision.

Objections—what to state.

Decision of council.

Appeal.

Appellant to file notice of appeal.

tified to by the city clerk as being a true copy of the original, upon payment of the necessary fees therefor. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the Supreme Court in civil actions. At the time of the filing of the transcript on appeal, the appellant shall execute and file with the clerk of the Superior Court a sufficient bond with at least two sureties (provided however, that any surety company authorized by the laws of the State of Washington to become surety upon appeal bonds shall be deemed sufficient security), to be approved by the judge of said court, conditioned to prosecute such appeal without delay and, if unsuccessful, to pay all costs to which the city is put by reason of such appeal. Such bonds shall be for a penal sum of not less than two hundred dollars. Said cause shall be docketed by the clerk of such court in the name of the person taking such appeal as plaintiff and against said city as defendant as "an appeal from assessment."

Proviso. Within three days after such transcript is filed in the Superior Court, as aforesaid, the appellant shall give written notice to the head of the legal department of such city, and to the city clerk, that such transcript is filed. Said notice shall state a time (not less than three days from the service thereof) when the appellant will call up the said cause for hearing; and the Superior Court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury; and such cause shall have preference over all civil causes pending in said court, except proceedings under an act relating to eminent domain in cities and towns and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment in so far as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision, if any

Fees same as for appeal to Supreme Court in civil actions.

Bonds for not less than \$200.

Docketing of cause.

Notice in three days.

Time of hearing.

Hearing without jury.

Judgment of court.

Copy of decision to be filed.

modification thereof be required to make such roll conform to such decision. An appeal shall lie to the Supreme Court from the judgment of the Superior Court, as in other cases: *Provided, however,* That such appeal must be taken within fifteen days after the date of the entry of the judgment of such Superior Court; and the record and opening brief of the appellant in said cause shall be filed in the Supreme Court within sixty days after the appeal shall have been taken by notice as provided in this act. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the Superior Court, or by stipulation of the parties concerned. And the Supreme Court, on such appeal may correct, change, modify, confirm or annul the assessment in so far as the same affects the property of the appellant. A certified copy of the order of the Supreme Court upon such appeal shall, within fifteen days after the entry of such order, be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision, if any modification or change thereof be required to make such roll conform to such decision.

Proviso.

Filing of brief within sixty days.

Extension of time.

Changes in assessment.

Filing of copy of court's order.

SEC. 3. The action of the council or other legislative body, hereinbefore mentioned in confirming such assessment roll shall be conclusive in all things upon all parties not appealing therefrom in the manner and within the time hereinbefore mentioned, and no proceeding of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment, or the sale of any property to pay such assessment or the foreclosure of any lien herein provided for: *Provided,* This section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds: (1) That the property about to be sold does not appear upon the assessment roll, and (2) that said assessment has been paid.

Action conclusive.

Proviso.

SEC. 4. The city shall prescribe by ordinance within what time such assessments, or instalments thereof,

Ordinance to prescribe— what.	shall be paid; and may provide for the payment and collection of interest at a rate not to exceed eight per cent. per annum upon all unpaid instalments. Assess-
Delinquent assessments to bear interest and penalty.	ments, or instalments thereof, shall, when delinquent, bear such interest and penalty as may be by ordinance or charter prescribed. Interest and penalty shall be included in and shall be a part of the assessment lien.
Collections.	All assessments shall be collected and all such liens enforced in such manner as may be by charter or ordinance prescribed.
Provisions for sale of property.	SEC. 5. Such cities may by charter or ordinance provide for the sale of the property described in the assessment roll, after the assessment or any instalment thereof shall have become delinquent, for the amount of such delinquent assessment or instalment, and whatever penalty and interest may have accrued, and for the costs of such sale; and for the execution and delivery by the officer making such sale of certificates of sale to the purchaser, and for the execution of an assessment deed to the person entitled thereto under the provisions of said charter or ordinance: <i>Provided, however,</i>
Proviso.	That such sale shall not be made until after reasonable notice thereof, to be prescribed by the charter or ordinance, shall have been published: <i>And provided further,</i>
Period of redemption.	That there shall be a period of redemption of any property sold as aforesaid within the same time and by the same persons, at least, as may be provided by law for the redemption of real estate sold upon execution. Said cities may prescribe by ordinance or charter that
Assessment deeds conclusive.	such assessment deeds shall be conclusive of all things pertaining to any and all prior proceedings of which such deeds can, under the constitution of the United States and of the State of Washington, be made conclusive, and shall convey the entire title to the property therein described stripped of all prior liens and claims, except unpaid assessments and general taxes. The city
County treasurer may collect, when stipulated by ordinance.	may by ordinance or charter prescribe that the county treasurer shall be the collector of all delinquent assessments; and such treasurer shall, thereupon, make such collections, and shall do all things, including the ad-

vertisement and sale of lots and parcels of land, the execution and delivery of certificates of sale, the execution and delivery of assessment deeds, and the acceptance of redemption money, as may be necessary to enforce [enforce] the collection of such assessments, and instalments thereof, and to foreclose the assessment liens as prescribed by charter or ordinance; but all expenses of such proceedings shall be paid by the city: *Provided however*, That the treasurer shall not receive from such city any compensation for such services. All such moneys which may be collected or received by such treasurer, or which may come into his hands as such collector, shall be paid by him to such city in such manner and at such times as such city shall prescribe by charter or ordinance.

SEC. 6. Whenever any city of the first class made by charter or ordinance provide for the collection of any assessment, or instalment thereof, or the enforcement of any assessment lien, by proceedings in court, it may bring an action in its own name for such purpose in the superior court in the county where such city is situate. In any such proceeding, all owners of property upon which there are delinquent assessments, or instalments thereof, arising under a single roll, may be joined as defendants, and all liens for such delinquent assessments, or instalments thereof, may be foreclosed in such proceeding. Such proceeding shall be tried before the court without a jury; and, if in such proceeding the court shall find that there is any amount properly chargeable to any of the lots or parcels of land included therein for the making of said improvement, it shall enter judgment therefor, and for all costs, against such lot or parcel of land, and shall decree that such land shall be sold to enforce such judgment, and execution shall issue for the enforcement of such decree. In any such proceeding, it shall be sufficient to allege the passage of the ordinance authorizing such assessment, the levying of the assessment, the confirmation thereof and the failure to pay such assessment, or instalment thereof, within the time prescribed. The

City to pay taxes.

Proviso.

City may bring actions in its own name.

Joint defendants.

Foreclosures.

Trial without jury.

Decree

Sufficient to allege passage of ordinance.

Burden of proof. assessment roll and confirmatory order, or duly authenticated copies thereof, shall be *prima facie* evidence of the regularity and legality of the proceedings connected therewith, and the burden of proof shall be upon the defendants.

Certificates of delinquency to constitute lien. SEC. 7. Any city of the first class may by charter or ordinance provide for the issuance of certificates of delinquency for any and all delinquent assessments, or instalments thereof, and any interest and penalty thereon which may be due. Such certificates of delinquency shall constitute a lien against the property upon which such assessments were levied, and shall bear interest from the date of issuance thereof at a rate to be prescribed by ordinance, not to exceed fifteen per cent. per annum, and shall be foreclosed, after a period prescribed by ordinance (not exceeding three years) in the same manner and with the same effect as mortgages upon real estate are foreclosed. Such certificates may be issued to the city, or may be sold to any person applying therefor upon payment of the value and principal, interest and penalty thereof. They may be assigned in writing, and the city may sell and assign any and all certificates which may be issued to it upon the payment of the value thereof in principal and accrued interest, in cash. Such certificates may contain or import such guaranty as the city may by charter or ordinance prescribe. They shall be *prima facie* evidence that the land against which the same were issued was subject to the assessment at the time the same was assessed, that the property was assessed as required by law, and that the assessment, or instalments thereof, were not paid prior to the issuance of such certificates.

Rate of interest.

Sale of certificates.

Assignment.

Guaranty.

Evidence.

Property to be struck off to the city. SEC. 8. At all sales of lots or parcels of land for the enforcement of assessments, or foreclosure of assessment liens whether after publication of notice, under decree of court or by foreclosure of delinquent assessment certificates issued to the city (which certificates may be foreclosed by the city in an action brought in its own name), or otherwise, the property offered for sale shall be struck off to the city for the amount of the delin-

quent assessment, interest, penalty and costs, if there be no bid therefor equal to or exceeding the amount of the assessment and such penalty, interest and costs as may then be due; and certificates of sale and deeds shall be issued to such city in the same manner and with the same effect as to any other bidder: *Provided*, Proviso. *however*, That said city shall hold such property as trustee of the fund for the creation of which such assessment was levied: *Provided further*, That said city may, at Proviso. any time prior to the expiration of the period of redemption, pay into such fund the amount of the delinquent assessment, with accrued interest to the time of the next call for bonds or warrants issued against such assessment fund at the rate provided for such bonds or warrants, upon such lot or parcel of land, and shall, thereupon, hold such lands discharged of such trust. If any lot or parcel of land shall be held by such city as trustee, as aforesaid, until the period of redemption shall have expired, said city shall, thereupon, advertise Shall advertise sale. in such manner and for such time as may be prescribed by charter or ordinance such lot or parcel of land for sale at public auction, and shall sell the same, pursuant Sale of — at public auction. to a notice, to the highest bidder therefor for cash, but no bid shall be accepted of an amount less than the face of the delinquent assessment upon such lot or parcel of land, plus the interest accruing, to the date of sale computed at the rate provided for delinquent assessments, and all penalties and costs which may have accrued, with interest thereon at the same rate; and, of the moneys received at such sale or sales, there shall be paid into the fund for the creation of which such assessment shall have been levied an amount equal to the Paid into fund amount equal to assessment. assessment upon such lot or parcel of land, plus the interest accruing thereon computed to the time of the next call for bonds or warrants issued against such fund at the rate prescribed for such bonds or warrants. If at such sale there shall be no bid in the amount aforesaid, When no bid. said city may sell such lot or parcel of land at private sale for bonds or warrants issued against the said assessment fund to any person who will surrender to such

city an amount of such warrants or bonds, which, with accrued interest, shall equal the amount of the assessment against such lot or parcel of land plus the accrued interest thereon, and all costs which may have been incurred, or for lawful money of equal amount. Bonds or warrants so surrendered and delivered to the city shall be canceled.

Cancelation of bonds or warrants.

SEC. 9. When the assessment upon property is payable in instalments, the foreclosure of the lien of any instalment, by sale or otherwise, shall not prevent the foreclosure of any subsequent instalment, when the same may become due; but such subsequent instalment may be collected and the lien thereof enforced in the manner provided. But the purchaser of any property at the foreclosure of any instalment may pay all subsequent accruing instalments, assessments or taxes upon the property so sold, while the same remains unredeemed, and such purchaser shall be entitled to collect, upon the redemption of such land, in addition to the purchase price and interest thereon, the amount of such subsequent payment or payments, with interest thereon at a like rate from the date of payment: *Provided, however,* That such city may provide by charter or ordinance that upon failure to pay any instalment when due, the entire assessment shall become due and payable and the collection thereof enforced in the manner prescribed.

Foreclosure not prevented.

Purchaser may pay all accruing instalments.

Purchaser entitled to collect.

Proviso.

SEC. 10. That the provisions of this act shall, so far as practicable, extend to the collection of any local improvement assessment or assessments, or to the enforcement of the lien or liens thereof, heretofore, as well as hereafter, levied or created; and cities of the first class may exercise the authority hereby conferred and the ways and means hereby authorized in the collection of existing assessments and the foreclosure of existing assessment liens: *Provided,* That nothing contained shall prevent or be construed to prohibit the assessment or collection of any local improvement assessment in any manner now, or which may be, provided by law or charter, but any city of the first class

Cities to exercise authority.

Proviso.

may pursue the means now, which may be, provided by charter or law for the levy, collection and enforcement of local improvement assessments; but the authority hereby conferred and the ways and means hereby authorized shall be considered as additional and concurrent. Nothing herein contained shall be construed as making any city liable to the holder of any local improvement bonds or warrants which are payable only from the proceeds of special assessments; and the holder of any such bonds or warrants shall look only to the fund provided by such assessment for the principal or interest of such bonds or warrants, and shall have no claim therefor against the city by which the same are issued, except from the special assessments levied for the improvement and funds thereby created.

Concurrent  
authority.

City not liable.

Exception.

Passed the House February 19, 1901.

Passed the Senate March 14, 1901.

Approved by the Governor March 16, 1901.

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## CHAPTER CXIX.

[H. B. No. 222]

### CREATING A STATE BOARD OF CONTROL AND REPEALING CONFLICTING LAWS.

AN ACT to create a State Board of Control, and to provide for the government, control and maintenance of the Western Washington Hospital for the Insane, the Eastern Washington Hospital of the Insane, the State Penitentiary, the State Reform School, the State Soldiers' Home and the State School for Defective Youth; repealing all laws in conflict with this act and declaring an emergency.

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

SECTION 1. The Governor of the state shall, by and with the advice and consent of the Senate appoint a bi-partisan board consisting of three citizens of the state, not more than two of whom shall belong to the

Governor to  
appoint.