

land or tide and shore lands belonging to the state or from any lands or tide and shore lands to which the state may hereafter acquire title, subject to the conditions hereinafter provided: *Provided, however,* If said lands are not used for mining and are used for other purposes the lease or contract shall be immediately cancelled.

Cancellation  
of lease.

SEC. 2. That leases and contracts heretofore entered into and executed by the commissioner of public lands for the mining of gold, silver, copper, lead, cinnabar or other valuable minerals except coal, from tide or shore lands be and the same are hereby validated.

Validation  
of existing  
leases.

Passed the Senate February 18, 1915.

Passed the House March 8, 1915.

Approved by the Governor March 18, 1915.

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## CHAPTER 153.

[H. B. 172.]

### EMPOWERING DIKING DISTRICTS TO CONSTRUCT DRAINAGE SYSTEM.

AN ACT relating to dikes and drains enlarging the powers of diking districts, providing a method for the construction of a drainage system therein and amending section 4097 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That section 4097 of Rem. & Bal. Code be amended to read as follows:

Amends  
Rem.-Bal.  
§ 4097, by  
adding power  
to provide  
drainage  
system.

Section 4097. All diking districts organized under the provisions of this act shall have the right of eminent domain with the power by and through its board or commissioners to cause to be condemned and appropriated private property for the use of said organization, in the construction and maintenance of a system of dikes and make just compensation therefor; that the property of private corporations may be subjected to the same rights of eminent

Delegation  
of power of  
eminent  
domain.

Powers of  
districts.

domain as private individuals, and said board of commissioners shall have the power to acquire by purchase all of the real property necessary to make the improvements provided for by this act. All diking districts and the commissioners thereof now organized and existing, and all diking districts hereafter to be organized, and the commissioners thereof shall have in addition to the rights, powers and authority now conferred by any law of this state:

(1st) The right, power and authority to straighten, widen, deepen and improve any and all rivers, water courses or streams, whether navigable or otherwise, flowing through or located within the boundaries of such diking district.

(2d) To construct all needed and auxiliary drains, ditches, canals, flumes, locks and all other necessary artificial appliances, in the construction of a diking system and which may be necessary or advisable to protect the land in any diking district from overflow, or to provide an efficient system of drainage for the land situated within such diking district, or to assist and become necessary in the preservation and maintenance of such diking system.

(3d) In the accomplishment of the foregoing objects, the commissioners of such diking districts are hereby given, in addition to the right and power of eminent domain now conferred by law upon the commissioners of any diking district, the right, power and authority by purchase, or the exercise of the power and authority of eminent domain, or otherwise, to acquire all necessary or needed rights of way in the straightening, deepening or widening of such rivers, water courses or streams, and such auxiliary drains, ditches or canals hereinabove mentioned, and when so acquired shall have and are hereby given the right, power and authority, by and with the consent and approval of the United States government, in cases where such consent is necessary, to divert, alter or change the bed or course of any such river, water course or stream aforesaid, or to deepen or widen the same.

Construction  
of drainage  
system.

SEC. 2. Before entering upon the construction of any system of drainage for the land situated within such diking

district, the commissioners thereof shall adopt a resolution which shall contain a brief and general description of the proposed improvement, a statement that the costs thereof shall be paid by warrants drawn and payable in like manner as for the original construction of the dikes of such district, and fixing a time and place within such district for hearing objections to such proposed improvement or for the proposed method of paying the costs thereof. The time so fixed shall be not less than 30 days or more than 60 days from the date said resolution shall be adopted. Such resolution may be adopted by the commissioners upon their own motion and it shall be their duty to adopt such resolution at any time when a petition signed by the owners of sixty per cent or more of the acreage within such diking district is presented, requesting them to do so.

Resolution  
for im-  
provement.

SEC. 3. Notice of such hearing shall be given by posting in three (3) public places within such district a true copy of said resolution signed by the commissioners of the diking district and attested with the seal thereof, which notice shall be posted for at least ten (10) days prior to the day fixed in said resolution for said hearing.

Notice of  
hearing.

SEC. 4. At the time fixed, the commissioners shall meet and if no objections have been made to the proposed improvement or to the proposed method of paying the costs thereof, they shall adopt an order reciting that fact and shall thereupon proceed to construct such system of drainage and pay the costs thereof in accordance with the terms specified in the resolution.

Procedure in  
absence of  
objections.

SEC. 5. But if objections in writing are filed either to the proposed improvement or to the proposed method of paying the costs thereof, the commissioners shall proceed to hear and consider the same and may, thereupon, order that such proposed improvement be abandoned for the time being or may direct such improvement to be constructed and the order of the commissioners in that regard shall be final and conclusive on all parties interested: *Provided, however,* That no such proceeding shall be abandoned unless the owners of at least twenty-five per cent of the acre-

Consideration  
of objections.

age within said district shall have at or prior to said hearing, filed protests against the same. But nothing contained in this act shall be held to forbid the commissioners in their discretion overruling all protests and directing the construction of such improvement.

Commissioners shall likewise hear and consider all objections that may be filed to the proposed method of paying the cost of such improvement.

Assessment  
of benefits.

SEC. 6. In case the commissioners at such hearing shall determine that the benefits accruing to any lot or parcel of lands within said district by reason of the construction of such drainage system are greater or less than the amount theretofore fixed in the original or any subsequent proceeding for the construction of dikes, they shall determine the amount of such benefits to each lot or parcel of land and certify their findings and determination in that regard to the county auditor and the county auditor shall note the same on the transcript of the judgment (and in case there has been any re-adjustment of assessments of such diking district, then upon such transcript as re-adjusted).

Appeal to  
superior  
court.

SEC. 7. Any person deeming himself aggrieved by the assessment for benefits made against any lot or parcel of land owned by him, may appeal therefrom to the superior court for the county in which the diking district is situated; such appeal shall be taken within the time and substantially in the manner prescribed by the laws of this state for appeals from justices' courts and all notices of appeal shall be filed with the said board, and the board of diking commissioners shall at the appellant's expense certify to the superior court so much of the record as appellant may request, and the hearing in said superior court shall be *de novo*. and the superior court shall have power and authority to reverse or modify the determination of the commissioners and to certify the result of its determination to the county auditor and shall have full power and authority to do any thing in the premises necessary to adjust the

Trial de novo.

assessment upon the lots or parcels of land involved in the appeal in accordance with the benefits.

SEC. 8. In all cases wherein it is finally determined that the assessments for the system of drainage differ from the assessment theretofore made, as to any tract or parcel of land within said diking district, the diking commissioners in making their annual estimate shall segregate the amount necessary to be raised for the construction, repair and maintenance of the system of drainage or for the payment of the principal or interest of any bonds issued for drainage purposes from the amount necessary to be raised for all other diking purposes and the county auditor in apportioning said estimate for drainage purposes to the lands in such district shall base such apportionment upon the assessment fixed for drainage purposes and shall apportion the remainder of such estimate upon the basis fixed in the original or any subsequent proceeding for all other diking purposes. But in all other cases, the estimate and apportionment shall be made in accordance with existing laws.

Segregation of assessments for drainage system and diking purposes.

SEC. 9. Authority is hereby given to any diking district heretofore organized, or that may be hereafter organized, to issue bonds of such diking district for the purpose of procuring funds with which to construct a drainage system, such bonds to be issued in accordance with the terms of chapter 156 of the Laws of 1913, entitled "An act providing for the issuance of bonds by diking districts upon petition of 60 per cent in acreage of the property owners of such district to provide for the expense of repairs, improvements, maintenance and the purchase of machinery and other appliances."

Issuance of bonds for drainage system.  
[See 3 Rem.-Bal. §4126-1.]

SEC. 10. Either the dike commissioners or any land owner who has appealed to the superior court in accordance with the provisions of this act shall have a right to appeal to the supreme court within the time and in the manner prescribed by existing law.

Appeals to supreme court.

Passed the House March 1, 1915.

Passed the Senate March 8, 1915.

Approved by the Governor March 18, 1915.