

CHAPTER 4.

[H. B. 86.]

AUTHORIZING COUNTY INDEBTEDNESS FOR FEDERAL
ARMY POST.

AN ACT authorizing all counties now or hereafter organized to incur indebtedness, issue negotiable bonds, levy taxes to pay the principal and interest thereof, acquire by condemnation or otherwise land within the county, donate and convey the same to the United States for a permanent mobilization, training and supply station for any or all such military purposes, including supply stations, the mobilization, disciplining, and training of the United States army, state militia, and other military organizations, as are now, or may be then or thereafter, authorized or provided by or under federal law; conferring on such counties the power of eminent domain for the purposes of this act, and providing procedure therefor; granting the consent of the state to such conveyance, and ceding exclusive legislative jurisdiction to the United States over the land so conveyed; validating elections and proceedings heretofore had or held for incurring indebtedness for such purposes; declaring the existence of an exigency requiring the state and its governmental agencies to aid the federal government, and declaring an emergency.

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

SECTION 1. WHEREAS, In the judgment of the legislature of the State of Washington, an exigency has arisen demanding the exercise of the sovereign power of the state to aid and [in] repelling invasion, suppressing insurrection and defending the state in war, and

Preamble.

WHEREAS, It is the duty of the state and its governmental agencies to aid the national government to the full extent of their means and ability, and whereas, the success or defeat of the national government is equally the success or defeat of the state, and

WHEREAS, By the express mandate of article X of the state constitution, it is made the duty of the legislature to provide by law for organizing and disciplining the militia in such manner as it may deem expedient not incompatible with the constitution and laws of the United States, and

WHEREAS, By acts of congress, including those approved June 3rd, 1916, and August 29th, 1916, and regulations of the war department, disciplining by the federal government of the state militia (national guard) and other federal, state and local military organizations, at mobilization, training and supply stations is, among other things, provided, which method of disciplining the militia and other military organizations is, in the judgment of the legislature, deemed expedient and proper and not incompatible with the constitution and laws of the United States or existing laws of this state, and

WHEREAS, In the judgment of the legislature, the location of a permanent mobilization, training and supply station within the limits of any county of this state now or hereafter organized, availing itself of the provisions of this act, will aid and be of public benefit and advantage to the nation and state in repelling invasion, suppressing insurrection, defending the nation and state in war, and disciplining the militia, in which general public benefit and advantage the county availing itself of the provisions of this act will also proportionately share, but in addition to its general benefit will also enjoy additional and special benefits, with other local benefits and advantages, not accruing to the nation and other counties in the state, to an extent exceeding the cost of acquiring by condemnation or otherwise the site selected as herein provided.

SEC. 2. Whenever the secretary of war shall agree, on behalf of the federal government, to establish in any county now or hereafter organized in this state a permanent mobilization, training and supply station for any or all such military purposes as are now or may be then or thereafter authorized or provided by or under federal law, on condition that land in such county aggregating approximately a designated number of acres at such location or locations as may have been or thereafter be from time to time selected or approved by the secretary of war, be conveyed to the United States, with the consent of the State of Washington, free from cost to the

Authority to
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federal
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United States, and the board of county commissioners of such county shall adjudge that it is desirable and for the general welfare and benefit of the people of the county and for the interest of the county to incur an indebtedness in an amount sufficient to acquire land in such county aggregating approximately the number of acres so designated at such location or locations as have been theretofore or may be thereafter selected or approved by the secretary of war, and convey all of such lands to the United States to be used by the United States for any or all such military purposes, including supply stations, the mobilization, disciplining and training of the United States army, state militia and other military organizations as are now or may be then or thereafter authorized or provided by or under federal law, such county is hereby authorized and empowered by and through its board of county commissioners to contract indebtedness for such purposes in any amount not exceeding, together with the existing indebtedness of such county, five per centum of the taxable property of such county, to be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness, whenever three-fifths of the voters of such county, voting on the question assent thereto at an election to be held for that purpose consistent with the general election laws, which election may be a special or general election: *Provided*, That if the election be a special election notice thereof shall be given and the question submitted as provided in section 4801 of Remington & Ballinger's Codes and Statutes of Washington and in section 4890 of 3rd Remington & Ballinger's Codes and Statutes of Washington.

Election to determine consent of voters.

SEC. 3. Whenever the board of county commissioners of any county shall submit to the voters of such county at an election to be held under the provisions of the last preceding section, the question of issuing bonds to procure money for such purposes and three-fifths of the voters of such county voting on the question have assented thereto, and the amount of such bonds, together with the

Assent to bond issue.

already existing county indebtedness will not exceed five per centum of the taxable property of such county, to be ascertained as provided in the last preceding section, then the board of county commissioners of such county is authorized and empowered to issue its negotiable bonds in the name of the county for the purposes for which such election was held. It being hereby declared that such purposes are purposes for which, under legislative authority, the county availing itself of the provisions of this act may lawfully incur indebtedness. Such bonds to be negotiable bonds of such county, payable in not more than twenty years, with interest not exceeding five per centum per annum, payable annually.

Form and issuance of bonds.

SEC. 4. Said bonds shall be in denominations of not less than one hundred nor more than one thousand dollars. They shall bear the date of issue, shall be made payable to the bearer in not more than twenty years from date of issue, and bear interest at a rate not to exceed five per centum per annum, payable annually, with coupons attached, for each interest payment. The bonds shall be signed by the chairman of the board of county commissioners and be attested by the clerk of such board and the seal of such board shall be affixed to each bond. The coupons shall bear the lithographed signature of the chairman and clerk of the board but need not be impressed with the seal. Such bonds shall be printed, engraved or lithographed on good bond paper and the bond shall state on its face that it is issued in compliance with the laws of the state of Washington. Such bonds shall be payable in any city containing a bank organized under the laws of the United States and may be sold by the county commissioners at not less than their par value, and their proceeds shall be applied only to the purposes for which such bonds were issued.

Tax levy to liquidate bonds and interest.

SEC. 5. The county commissioners of the county issuing such bonds are hereby required to levy annually a tax sufficient to pay and retire the interest coupons of such bonds as they become due and ten years before such

bonds shall become due, the county commissioners are hereby authorized and required annually to levy a tax sufficient to liquidate such bonds at maturity. Such taxes shall be levied and collected as general county taxes are levied and collected, but the proceeds of such taxes shall be kept in a separate fund for the sole purpose of liquidating such bonds and interest coupons in accordance with the provisions of the following sections.

SEC. 6. It shall be the duty of the treasurer of any county issuing bonds under the provisions of this act, whenever he has on hand in such fund two thousand dollars, exclusive of interest requirements, to advertise for three successive issues in the newspaper doing the county printing, for the presentation to him for payment of as many of such bonds as he may be able to pay with the funds in his hands, to be paid in numerical order of such bonds, beginning with bond numbered one, until all of such bonds are paid: *Provided*, That thirty days after the first publication of such notice of the treasurer calling in any of such bonds by their number such bonds shall cease to bear interest, which shall be stated in the notice.

Calling bonds.

Cessation of interest.

SEC. 7. When any coupon is by its terms payable and is presented to the place where by its terms it is payable and is not paid for want of funds, it may then be presented to the treasurer of the county issuing such bonds, and it shall be the duty of the treasurer to endorse the same as presented in the same manner as county warrants are endorsed, and thereafter such coupon shall bear interest at the rate of six per centum per annum until paid, or interest is stopped after call for payment as county warrants are called for payment. The money in such fund shall be first applied to the payment of accrued interest.

Interest on coupons.

SEC. 8. Before such bonds are delivered to the purchaser they shall be presented to the county treasurer who shall register them in a book kept for that purpose and known as the "bond register," in which register he shall enter the number of each bond, the date of its issue, ma-

Registration of bonds.

turity, amount, rate of interest, when and where payable; and shall endorse on each bond a certificate that it has been registered as required by law.

SEC. 9. The right of eminent domain is hereby extended to every county availing itself of the provisions of this act, for every purpose of condemnation, appropriation or disposition intended by this act, and such county is hereby authorized and empowered to condemn and appropriate all lands and rights whatsoever whether now or hereafter devoted to other public use, including lands belonging to the state or any of its governmental agencies or public corporations held either in its or their proprietary capacity and whether already segregated from the public domain and appropriated to other public use or not, all under the procedure hereinafter provided: *Provided*, That it shall be discretionary with such county, as petitioner, to join as respondents all parties in one proceeding, or in one or more proceedings, as may be determined by its board of county commissioners or attorney for the county, and where the state is a party respondent it may be joined with the other respondents or proceeded against separately, all in the superior court of such county: *And provided further*, That the determination of the commissioners of such county that the secretary of war has selected the lands described in the petition or petitions shall be conclusive that public necessity requires their condemnation and appropriation for such military site.

SEC. 10. In proceeding to appropriate the land, real estate and premises herein provided for, such county, through its board of county commissioners, shall present to the superior court of such county or to the judge of such superior court, a petition in which the land, real estate, premises or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer or other person or party interested in the same or in possession thereof, or any part thereof, so far as the same can

Power of eminent domain to condemn for army post.

Joinder of parties defendant.

Public necessity.

Petition for condemnation.

be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money, irrespective of any benefits from such improvement to such owner or owners, respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such lands, real estate, premises or other property, or in case a jury be waived, as in other civil cases in courts of record in the manner prescribed by law, then that the compensation to be made, as aforesaid, be ascertained and determined by the court or judge thereof.

SEC. 11. A notice, stating briefly the objects of the petition, and containing a description of the land, real estate, premises, or property sought to be appropriated, and stating the time and place when and where the same will be presented to the court, or the judge thereof, shall be served on each and every person named therein as owner, encumbrancer, tenant, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode with some person of suitable age and discretion then resident therein; or in case of a foreign corporation or nonresident joint stock company or association doing business within the state, to any agent, cashier, secretary or employee thereof. In case of domestic corporations, such service may be made upon the president, secretary, managing agent, director or trustee of such corporation, and in the event the name and residence of any such officer cannot be ascertained, which fact may be shown by the affidavit of the attorney for the county, such service may be made upon the secretary of state and such service shall be deemed a good and sufficient service upon such corporation. In case

Service of
notice.

of minors on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor. In case of idiots, lunatics or persons laboring under legal disability, on their guardian; or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. The court shall appoint a guardian *ad litem* for such infant, insane person, or person under disability, to appear and defend for him, her or them, and the court shall make such order or decree as it shall deem proper to protect and secure the interest of such infant or insane person or person under disability, in the particular property that is to be taken or damaged, or the compensation which shall be awarded therefor. In case the land, real estate, premises or other property sought to be appropriated is property of a city, town, school district or other municipal or public corporation, the said notice shall be served on the clerk of said city, town, school district, municipal or public corporation, and if there is no such clerk then upon the officer performing the duties pertaining to such clerk. In all cases when the owner or party claiming an interest in such real or other property is a non-resident of this state, or where the residence of such owner or party is unknown, and an affidavit of the attorney for the county shall be filed stating that he believes such owner or party is a non-resident of this state, or that, after diligent inquiry the residence of such owner or party is unknown, or cannot be ascertained by such affiant, service may be made by publication thereof in the official newspaper of the county, once a week for two successive weeks; in case the owners or claimants to any property described in the petition are unknown, it shall be sufficient to designate them as "all other persons unknown claiming any right, title, lien or interest in or to the property described herein," and service may be made on such owners or claimants as upon non-residents; such publication shall be deemed service upon each of such owners or claimants unknown or whose residence is unknown. Such notice shall be signed by the at-

torney for the county. Such notice may be served by any competent person over twenty-one years of age. Due proof of service of such notice, by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. All persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all cases not herein provided for, service of notices, orders and other papers in the proceedings authorized by this act may be made as the superior court, or the judge thereof, may direct, or as may be provided by law for service of summons and process in civil actions.

SEC. 12. In all condemnation proceedings brought for the purpose of appropriating any land owned by the state or in which it has an interest, service of notice shall be made upon the commissioner of public lands.

Service in
case state
owns lands.

SEC. 13. The court or judge may, upon application of the petitioner or of any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

Adjournment
of pro-
ceedings.

SEC. 14. At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property described in said petition, have been duly served with notice as above prescribed, and shall be further satisfied by competent proof that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really a public use, the court or judge thereof may make an order impaneling a jury. Such jury may be the same jury summoned for the trial of ordinary civil actions before the court or the court may, in its discretion, issue a venire to the sheriff to summon such number of qualified persons as the court shall deem sufficient.

Jury to be
impaneled.

Trial.
Assessment of damages.
Judgment, how entered.

SEC. 15. A judge of the superior court shall preside at the trial, which shall be held at such time as the court, or the judge thereof, may direct, at the courthouse in the county where the land, real estate, premises, or other property sought to be appropriated is situated, and the jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation, or company, or to the state, or to any municipal or public corporation or other party, by reason of the appropriation and use of such land, real estate, premises, or other property by such county, as aforesaid, and shall ascertain, determine and award the amount of damages to be paid to said owner or owners respectively, and to all tenants, encumbrancers, and others interested for the taking or injuriously affecting such land, real estate, premises, or other property, irrespective of any benefit from any improvement proposed by such county. Upon the trial, witnesses may be examined in behalf of either party to the proceedings, as in civil actions. Judgment shall be entered by the court, and not by the clerk, for the amount of the damages awarded to such owner or owners respectively, and to all tenants, encumbrancers, and others interested, for the taking or injuriously affecting such land, real estate, premises, or other property. In case a jury is waived as in other civil actions in courts of record in the manner prescribed by law, the compensation to be paid for the property sought to be appropriated shall be ascertained and determined by the court, or judge thereof, and the proceedings shall be the same as in trials of an issue of fact by the court. No judgment shall be final until signed by the court and filed with the clerk.

Effect of judgment.

SEC. 16. Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be

taxed as in other civil cases: *Provided*, That in case any respondent recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive unless appealed from, and no appeal from the same shall delay the proceedings nor deprive the county of the right to possession of the property condemned, if such county, shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs, and such county, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties so appealing in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of an appeal to the supreme court of the state by any party to the proceedings the money so paid into the superior court shall remain in the custody of said superior court until the final determination of the proceedings. If any party entitled to appeal accepts the sum awarded by the jury or by the court, he shall be deemed thereby to have waived an appeal to the supreme court.

SEC. 17. The court, upon proof that just compensation so found by the jury, or by the court in case the jury is waived, together with costs, has been paid to the person entitled thereto, or has been paid into court, shall enter an order that such county shall have the right at any time thereafter to take immediate possession of or damage the property in respect to which such compensation shall have been so paid, and thereupon the legal title to any property so taken shall be vested in fee simple in such county, and a certified copy of such judgment or decree of appropriation and order shall be filed for record in the office of the county auditor of such county and shall be recorded by said auditor like a deed to real estate and with like effect. If the title to said land, real estate, premises, or other property attempted to be acquired is found to be

Appeals

Vesting of title in county.

defective from any cause, such county shall again institute proceedings to acquire the same as in this act provided.

Dismissal of proceedings as to any tract.

SEC. 18. At any time within six months from the date of rendition of the last judgment awarding compensation in the superior court for land taken or damaged, selected by the secretary of war, as provided in this act, or if any appeal be taken, then within two months after the final determination of the appeal in the supreme court, such county may dismiss the proceedings as to any tract or parcel of land described in any petition or petitions filed in accordance with this act, by resolution of its board of county commissioners before making payment, by paying or depositing in court all taxable costs incurred by any parties interested in the particular tract or tracts up to the time of discontinuance.

Payment of awards.

SEC. 19. Whenever claim is made to any money paid into court, as provided in this act the claimant may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or it is entitled to the same, the court shall make an order directing payment to such claimant of the portion of such money he or it shall be found entitled to, after first deducting the amount found to be due against the particular tract of land for all taxes and assessments as shown by the records in the office of the county treasurer and county assessor; but if, upon application, the court or judge thereof, shall decide that there are conflicting claims to the award he may proceed to hear and determine the same.

Practice and procedure.

SEC. 20. Except as herein otherwise provided, the practice and procedure under this act in the superior court and in relation to the taking of appeals and the prosecution thereof, shall be the same as in other civil actions, but all appeals must be taken within thirty days from the date of filing the judgment appealed from: *Provided*, That in case of appeal no bond shall be required of the county.

Appeals, time for taking.

Validation of bond election prior to present act.

SEC. 21. That in case at any general or special election in any county the question of incurring an indebtedness and

issuing the negotiable bonds of such county for the purpose of acquiring land in such county and conveying the same to the United States to be used by the government for mobilization, training and supply station, has been submitted to the vote of the voters of such county at any time within one year next prior to the date when this act shall be passed by the legislature, and the vote at such election was such as would have authorized by sufficient majority of votes the incurring of such indebtedness, and the issuance of such bonds, had this act then been in force and such vote been taken pursuant to the provisions of this act, then in that case such vote and all the proceedings in connection therewith had or taken be and the same hereby are validated and confirmed and such county is authorized and empowered by and through its county commissioners to proceed with the matters of incurring such indebtedness, issuing and selling such bonds, acquiring by condemnation or otherwise the lands selected or to be selected by the secretary of war as authorized by such election and this act, and with conveying the same to the United States, all substantially in the same manner as if this act had been in force and effect at all times for one year prior to the date of holding such election, then, at all times since, and now.

SEC. 22. Pursuant to the constitution and laws of the United States, and especially to paragraph seventeen of section eight of article one of such constitution, the consent of the legislature of the state of Washington is hereby given to the United States to acquire by donation from any county acting under the provisions of this act, title to all the lands herein intended to be referred to, to be evidenced by the deed or deeds of such county, signed by the chairman of its board of county commissioners and attested by the clerk of such board under the seal of such board, and the consent of the state of Washington is hereby given to the exercise by the Congress of the United States of exclusive legislation in all cases whatsoever, over such tracts or parcels of land so conveyed to it: *Provided*, Upon such conveyance being concluded, a sufficient description by metes and bounds and an accurate plat or map of

State consent
to county
donation of
land to
United States.

Exclusive
legislation
conferred on
Congress.

Service of
process of
state courts.

each such tract or parcel of land be filed in the auditor's office of the county in which such lands are situated, together with copies of the orders, deeds, patents, or other evidences in writing of the title of the United States: *And provided*, That all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime in cases arising outside of such reservation, may be served and executed thereon in the same mode and manner and by the same officers as if the consent herein given had not been made.

Compliance
of county
under
voluntary or
compulsory
law.

SEC. 23. Whenever, under any law heretofore or hereafter enacted, there is imposed upon any county an indebtedness not exceeding a specified amount, exclusive of interest, with the duty of issuing its negotiable bonds, levying taxes to pay the same, acquiring by condemnation or otherwise land in such county and conveying the same to the United States for a permanent mobilization, training and supply station, the voluntary assumption of such indebtedness, in whole or in part, under the provisions of this act, or the incurrence of such indebtedness in whole or in part by reason of the provisions of such compulsory law, when had under either or both laws to the extent required by the law imposing such indebtedness, shall, as to such indebtedness, be regarded as compliance with each of such laws, but the aggregate indebtedness of any county for such purposes shall not exceed the sum of two million dollars exclusive of interest.

Emergency.

SEC. 24. Owing to lack of proper and adequate military training and preparedness, the public peace and safety are and will continue to be endangered, an emergency exists and this act is enacted for the support of the federal and state governments, as well as under the police power of the state, declared to be and is necessary for the immediate preservation of the public, peace and safety, and shall take effect immediately.

Passed the House January 25, 1917.

Passed the Senate January 25, 1917.

Approved by the Governor January 29, 1917.