

CHAPTER 120.

[H. B. 181.]

REFUNDING BONDS OF IRRIGATION DISTRICTS.

AN ACT providing for limited liability refunding bonds of irrigation districts and for the payment thereof by the exaction of assessments against the lands within the district, providing for a determination of the irrigable acreage to be assessed for said purpose and providing for the determination of maximum benefits received by said respective lands from such bonds.

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

Authorized

SECTION 1. Any or all bonds heretofore issued by any irrigation district in this state may be refunded as hereinafter provided.

Before election, board may submit fixation of irrigable acreage and maximum benefits to court.

SEC. 2. Before any proposition for the issuance of limited liability refunding bonds, as provided for in this act, of an irrigation district in this state shall be submitted to the electors thereof, the board of directors of said district shall at their option have authority, upon the written consent of the holders of at least 51% of the face value of the bonds proposed to be refunded, and upon the written approval of the state department of conservation and development, and of the owners of 51% of the acreage of the land within the district, to institute proceedings in the superior court of the proper county to determine the irrigable acreage of the lands which shall be subject to assessment for the payment of said refunding bonds and the interest thereon, and to determine the maximum benefits to be received by said lands from said proposed refunding bonds, in the manner herein provided.

Petition to be filed.

SEC. 3. The said board of directors shall institute such proceedings by filing a petition in the superior court of the county in which the greater part of the lands in the district are situated. Said

petition shall give the name of the district, shall set out the nature of its water rights and the general character of its irrigation works and distribution system, shall state the amount, maturity schedule of minimum annual installments of principal and maximum interest rate of the proposed refunding bonds, shall state the approximate irrigable acreage in the district and the probable approximate aggregate annual income therefrom during the life of the proposed refunding bonds, shall recite that the required consent of the holders of the bonds to be refunded has been obtained and shall state such other matter, if any, the said board of directors may deem pertinent to the proceedings, shall pray for the determination of the irrigable acreage and of the maximum benefits aforesaid and shall be signed and verified by the president of the said board of directors.

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SEC. 4. There shall accompany said petition as an exhibit thereto a schedule of maximum benefits and of irrigable acreage for all the respective lands in the district. Such schedule shall contain in appropriate columns the name of the person to whom such tract of real property was assessed and the description of said property according to the district assessment roll last equalized, in a third column with appropriate heading shall be specified after each said description of land the maximum benefit to be received from the proposed refunding bond issue and in another appropriately specified column shall be stated after each tract the irrigable acreage thereof which will be assessed for payment of the proposed refunding bonds. Said schedule shall be signed by the secretary of the district.

Schedule of maximum benefits to be exhibit to petition.

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SEC. 5. Upon the filing of said petition with the schedule of irrigable acreage and maximum benefits, the court shall fix a time and place for hearing the same and shall order the secretary of the district to

Time and place for court hearing.

give and publish a notice of said hearing. Said hearing may be held at the place fixed in the order and may be adjourned to a place certain in any county in which any lands within the district are situated, and may be continued from time to time and adjourned from county to county for the convenience of land-owners and other interested persons.

Notice given.

SEC. 6. The notice of said hearing shall be given and published in the same manner, except as herein otherwise provided, and for the same length of time that a notice of a special election to determine whether the bonds of the district shall be issued is required to be given and published.

Contents of notice.

SEC. 7. Said notice shall state that the district (naming it) proposes to issue and dispose of a refunding bond issue specifying the amount; that proceedings have been instituted in the superior court of the State of Washington in and for the specified county to determine the maximum benefits to be received by the lands within the operation of said district from the issuance and disposal of said proposed bond issue, and further to determine the irrigable acreage which will be assessed for the payment of said bonds, shall state that a schedule of the lands involved together with a statement of the amount of maximum benefits received by the amount of irrigable acreage in each respectively, is on file in said proceedings and may be inspected by any interested person, shall state the time and place fixed for the hearing of the petition and shall state that any person interested in such proceedings may on or before the day fixed for said hearing file his written objections thereto with the clerk of said court, or he will be forever bound by such orders as the court shall make in such proceedings.

Hearing to consider petition.

SEC. 8. At the time and place stated in the notice of said hearing, the court shall consider said petition and shall receive such pertinent evidence as

may be offered in support thereof or against the same, shall enter a decree fully determining the maximum benefits received by and the irrigable acreage in, the several tracts of land involved as shown by the schedule and as prayed for in said petition. Said action shall be an equitable one *in rem* and the court shall have full authority to make and issue any and all necessary orders and to do any and all things proper or incidental to the exercise of its jurisdiction in this connection. At said hearing the matters set forth in said petition and accompanying schedule shall be presumed to be true and correct in the absence of sufficient evidence to the contrary.

Decree to determine maximum benefits and irrigable acreage.

SEC. 9. The maximum benefits accruing to the several tracts of land in the district from the proposed refunding bond issue shall be considered as new and independent of that accruing from the bonds to be refunded and in determining the maximum benefits as prayed for in said petition, the court shall not be limited to a consideration of the enhancement of market value of the lands involved arising immediately from the issuance and disposal of the proposed refunding bonds but shall have authority to consider such benefits as shall accrue to said lands from the plan of financing provided by the proposed bonds and from the continued operation of the irrigation system under the administration of the district during the life of said refunding bonds and any other benefits that may accrue. If the court finds that the aggregate amount of said maximum benefits shall not equal at least 150% of the amount of the proposed refunding bonds with the maximum rate of interest provided by law, it shall enter a decree dismissing the proceedings and the district shall have no authority to issue the proposed refunding bonds until a satisfactory decree has been obtained under the provisions of this act.

Effect of maximum benefits.

Elements Court may consider.

Proceedings dismissed unless court finds maximum benefits is at least 150% of amount of proposed bonds.

Plan may be modified to meet court's objection.

Provided, That nothing herein contained shall be construed to prevent the district from continuing the hearing for the purpose of modifying the proposed refunding bond plan or for the purpose of otherwise meeting the objection of the court, nor shall the dismissal of the proceeding be in anywise prejudicial to the institution of a subsequent action for the same purpose; *And provided further*, That nothing herein contained shall be construed to prevent the court from entering a decree upon stipulation of the holders of the bonds to be refunded to waive their right to part of the indebtedness represented by the bonds to be refunded, so that the proposed refunding bond issue come within the statutory requirements as to maximum benefits, or to accept refunding bonds based on a lesser aggregate maximum benefit than that required by the statute.

Decree based on stipulation of bond-holders.

Elements considered in determining irrigable acreage.

SEC. 10. In determining the irrigable acreage as provided herein, the court shall consider all lands included in the district capable of being used for agricultural purposes, provided that no lands shall be found to be irrigable which are not irrigable from the plan of the irrigation works of the district; and provided that nothing herein contained shall be construed to prevent a reconsideration of the irrigability of lands found non-irrigable upon the modification or enlargement of the irrigation system whereby said lands at first found non-irrigable may be irrigated by the district system.

Appeal to supreme court.

Notice served.

SEC. 11. Appeal may be taken to the supreme court from the judgment entered in said proceedings in the same manner as in other cases in equity. Notice of appeal need be served only on the persons who have appeared in said proceedings and on the president of the board of directors if the district is respondent, or on their respective attorneys of record in the proceedings.

SEC. 12. The judgment of the court determining maximum benefits and the irrigable acreage in such proceedings, unless appealed from within the time prescribed by law, and upon final judgment on appeal, shall be conclusive, except as herein otherwise provided, upon and against each and every owner of said bonds issued as proposed and upon and against every tract of land in the district, upon and against those owning the same or having any interest therein, including minors, insane persons, those convicted of crime as well as those free from disability, and upon and against those who may have appeared in said proceedings.

Judgment of court conclusive upon bond owners.

SEC. 13. Said judgment shall be final and conclusive upon and against all lands in the district on appeal as aforesaid, except as to the particular tract or tracts involved in the appeal.

Judgment conclusive against lands.

SEC. 14. A transcript of so much of the judgment in said proceedings as pertain to the lands situated in each county other than the one in which the proceedings were instituted shall be certified by the clerk of the court and mailed to the county clerk of each of said other counties respectively for record among the recorded judgments therein.

Transcript of judgment filed in other counties.

SEC. 15. Upon final determination of maximum benefits and irrigable acreage aforesaid, the board of directors of the district shall submit to the electors of the district possessing the qualifications prescribed by the irrigation district law the question whether refunding bonds of the district in amount and of the maturity proposed by said board shall be issued and exchanged for outstanding bonds as herein provided.

Question to be submitted to electors.

SEC. 16. Except as herein otherwise specifically provided said election shall be called, noticed, conducted and the results thereof determined in the same manner and by the same officials as that provided by law for the calling, noticing, conducting

Manner of calling, conducting and noticing election.

and canvassing of original bond elections in irrigated districts.

Contents of election notice.

SEC. 17. The notice of said election shall specify the time and place of the election, the amount of the proposed refunding bonds, the maturity, the schedule of the minimum annual payments of the principal thereof and the maximum annual rate of interest said bonds shall bear, as approved by the court in the decree determining maximum benefits and irrigable acreage.

If majority of electors favor, refunding bonds may be issued.

SEC. 18. If a majority of the votes cast at said election are in favor of the proposed refunding issue the board of directors shall thereupon have authority to cause refunding bonds of the district in the amount and on the basis of the plan of payment and rate of interest proposed, to be issued and exchanged as herein provided:

Exchange of bonds.

SEC. 19. Refunding bonds provided for under this act may be exchanged for any or all of the bonds to be refunded on such basis as may be agreed upon between the board of directors of the district and the bondholders; *Provided*, That said refunding bonds shall not be issued in a greater sum than the total aggregate face value of the bonds to be refunded.

Denomination of bonds.

Maturity dates.

Annual installments.

SEC. 20. Said refunding bonds shall be issued in such denominations as the board shall determine but in the same denominations so far as practicable as the bonds to be refunded and shall mature at the date specified in the notice of election but not in any event later than thirty years from the date thereof and shall be payable in minimum annual installments specified on a percentage basis and amortized to provide for full payment of the bonds with interest at maturity; *Provided*, That the district shall have the right in any year to pay a greater amount on account of the principal of said bonds than the

minimum annual installment set out in the schedule of annual payments and to receive credit therefor.

SEC. 21. All unpaid installments on account of the principal of said refunding bonds shall bear interest from the date of the bonds at a rate not exceeding 6% per annum until paid. Different installments of the principal of said bonds may bear different rates of interest not exceeding 6% per annum in any case if it is so provided in the bond plan. Interest shall be payable semi-annually on the first day of January and July of each year.

Interest not to exceed 6%.

Interest payable semi-annually.

SEC. 22. Both principal and interest shall be made payable at the office of the county treasurer of the county in which the office of the board of directors of the district is situated.

Payable at office of county treasurer.

SEC. 23. Said bonds shall express upon their face that they were issued by authority of this act, stating its title and date of approval, that the district reserves the right to pay on account of the principal thereof annual installments at a greater rate than the minimum rate stated in the bonds, that said bonds are transferable only on the registration book of the county treasurer's office at which said bonds are payable; that any attempted transfer of said bonds not recorded in said registration book shall be void so far as the rights of the district are concerned and that said bonds are of equal priority, payable with interest on a pro rata basis from revenues derived from annual assessments levied against the irrigable benefited lands within the district.

Bonds to express authority for issue.

Other contents.

SEC. 24. Said bonds shall provide for registration as to both principal and interest in the county treasurer's office at which they are payable, shall be signed by the president of the board and secretary of the district and the seal of the district shall be impressed thereon.

Registration.

Register
book.

SEC. 25. The county treasurer shall register said bonds before the issuance thereof in a book kept in his office for that purpose, shall specify in such record the denomination, maturity date, schedule of installments of principal, interest rate or rates, and the name and address of the owner of each of said bonds and shall certify on each thereof under his seal that the same has been so registered.

Transferable
only on
registration
book.

SEC. 26. Said bonds shall be transferable only on the registration book of the county treasurer's office at which the same are payable and any attempted transfer of said bonds not recorded in said registration book shall be void so far as the rights of the district are concerned.

Transfer to
show date,
etc.

SEC. 27. No transfer of any bond shall be complete unless said county treasurer shall endorse thereon the date of transfer, the name and address of the transferee and the amount of the principal of said bond remaining unpaid at the date of said transfer.

Priority
and pro
rata
payment.

SEC. 28. Said bonds shall be of equal priority and shall be paid on a pro rata basis, in proportion to their respective face values, *Provided*, That for purposes of identification only said bonds may be numbered consecutively.

Payment to
registered
owner
valid.

SEC. 29. Payment by the said county treasurer of any installment of or interest on said bonds, or any of the same, to the recorded owner thereof as shown on said registration book shall constitute a valid payment, without surrender of said bonds or any of the same, provided that final payment on account of any bond shall not be made until and unless the same is surrendered.

Bondholders
may design-
ate agent
to receive
payments.

SEC. 30. Any bondholder or group of bondholders shall have the right to request said county treasurer in writing to pay the interest and installments of principal of his or their bond or bonds to such

agent as may be designated in said request and payment to said agent shall constitute a valid payment to the record owner or owners of said bond or bonds within the provisions of this act.

SEC. 31. No tract of land shall be assessed by the district during the life of the proposed bonds when issued for the purpose of paying the principal of or interest on said bonds in an aggregate amount in excess of the maximum benefits received by said tract from said bond issue as determined in the decree, and any assessment in excess thereof shall be void. In addition to its regular normal assessment for the principal or interest of said bonds, no tract of land shall be assessed in any one year to make up past or anticipated delinquencies of assessments or both levied or to be levied against the lands in the district for said purposes, in excess of 50% of its regular normal assessment for said bonds.

No assessment in excess of maximum benefits.

No annual assessment in excess of 50% of normal assessment.

SEC. 32. The treasurer of the proper county shall have authority at any time to receive for the benefit of the refunding bond fund of the district the total amount of unpaid maximum benefits decreed by the court as accruing to any tract of land and no further assessments for said bonds against the tract of land so making full payment shall be levied.

Total unpaid maximum benefits may be received.

SEC. 33. In any case where the landowner makes full payment of the decreed maximum benefits received or to be received by any tract of land aforesaid, the county treasurer shall issue the landowner a receipt stating that the payment is in full of maximum benefits received from the proposed bond issue determined in case No. (stating it) records of the county clerk's office of (naming it) county, and that no further assessments for the purpose of said bond issue shall be chargeable against said land.

Upon full payment of maximum benefits, receipt to be issued.

SEC. 34. Full payment of the decreed maximum benefits accruing to any tract of land aforesaid can

Full pay-
ment by
money only.

be made by the payment of money only and no sale of any tract of land on account of delinquent district assessments shall be construed as a satisfaction chargeable against the amount of maximum benefits decreed as accruing to said tract by reason of said refunding bonds.

Sale or
rent of
lands
acquired
from sale
for delin-
quent
assessments.

SEC. 35. In any instance where an irrigation district having outstanding refunding bonds issued under the provision of this act, sells or rents a tract of land previously acquired by sale on account of delinquent district assessments, the proceeds of said sale or lease shall be distributed to the expense fund and the refunding bond fund of the district in proportion to the respective amounts of the district exactions made against said tract of land for the benefit of these two funds payable in the year in which the district assessment for which said tract was sold, became delinquent.

Apportion-
ment of
excess of
refunding
bond fund.

SEC. 36. When the money in the refunding bond fund reaches an excess of 10% of the amount necessary to meet the total aggregate minimum annual installment of the principal of said bonds and interest next payable, it shall be the duty of said treasurer to apportion said excess to the several bondholders on a pro rata basis in proportion to the par value of their respective bonds and include the same with the payments of the next annual installment of the principal of said bonds.

Lien of
refunding
bonds, and
rights and
privileges
of owners.

SEC. 37. Except as herein otherwise specifically provided, refunding bonds authorized, issued and disposed of under the provisions of this act shall entitle the holders and owners thereof to the same rights and privileges, shall constitute a lien on the same property and shall be paid in the same manner as the original bonds refunded by said bond issue and said refunding bonds shall be retired by the exaction of annual assessments levied against all the lands in the district until said bonds are fully paid,

Provided, That full payment to the credit of said refunding bond fund in the proper county treasurer's office, of the total aggregate amount of maximum benefits decreed by the court, as accruing from the proposed refunding bond issue to the irrigable acreage within the district, shall *ipso facto* extinguish the lien of said refunding bonds on and against any and all the district property.

SEC. 38. Proceedings had for the authorization, issuance and disposal of refunding bonds provided for herein may be considered, confirmed and approved by the court in proceedings authorized by the irrigation district act in the same manner and with the same effect, as proceedings had for authorization, issuance and disposal of other irrigation district bonds provided for by law, are considered, confirmed and approved.

Proceedings may be considered, confirmed and approved by court.

SEC. 39. If any section or provision of this act shall be adjudged to be invalid or unconstitutional such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged to be invalid or unconstitutional.

Unconstitutionality of part shall not affect balance.

SEC. 40. Nothing in this act contained shall be deemed or construed as abridging, enlarging or modifying any existing statute relating to refunding bonds of irrigation districts. This act is intended as an independent act providing an additional method for the issuance of refunding bonds of such districts.

Not to abridge, enlarge or modify existing statute.

Passed the House February 21, 1929.

Passed the Senate March 6, 1929.

Approved by the Governor March 20, 1929.