

## CHAPTER 154.

[S. B. 144.]

OVERFLOWING AND INUNDATING PUBLIC HIGHWAYS  
AND STREETS.

AN ACT relating to overflowing and inundating public highways  
and amending Section 1 of Chapter 202 of the Laws of 1927.

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

SECTION 1. That section 1 of chapter 202 of the  
Laws of 1927 be amended to read as follows:

Section 1. The state highway committee shall  
have power to, and in its sole discretion may, grant  
to any person or corporation the right, privilege and  
authority to perpetually back and hold the waters  
of any lake, river, stream, slough or other body of  
water, upon or over any state, county or permanent  
highway or road, or any street or alley within the  
limits of any town or city of the fourth class, or  
any part thereof, and overflow and inundate the  
same whenever the state supervisor of hydraulics  
shall deem it necessary for the purpose of erecting,  
constructing, maintaining or operating any water  
power plant, reservoir or works for impounding  
water for power purposes, irrigation, mining or  
other public use and shall so certify to the state  
highway committee. The decision of the state high-  
way committee, in the absence of bad faith, arbi-  
trary, capricious or fraudulent action, shall be con-  
clusive. But no such right shall be granted until it  
shall have been heretofore or shall be hereafter de-  
termined in a condemnation suit instituted by said  
person or corporation desiring to obtain such right  
or rights in the county wherein is situated that part  
of said road, highway, street or alley so to be af-  
fected that the use for which said grant is sought  
is a public use, nor until there shall be filed with the  
clerk of the court in which the order or decree of

Amends  
§ 1, Chap.  
202, Laws  
1927.

State  
highway  
committee,  
power.

Streets of  
fourth class  
city.

Supervisor of  
hydraulics.

Condemna-  
tion suit.

public use was entered a bond or undertaking signed by the person or corporation seeking the grant, executed by a surety company authorized to do business in this state, conditioned to pay all costs and expenses of every kind and description connected with and incident to the relocation and reconstruction of any such highway, road, street or alley, the same to be of substantially the same type and grade of construction as that of the highway, road, street or alley to be overflowed or inundated, including any such relocation, reconstruction and maintenance costs and expenses as may arise within a period of 18 months after such new highway, road, street or alley shall have been opened, in its entirety, to public travel, and also including any and all damages for which the state, county, city or town may be liable because of the vacation of any such highway, road, street or alley and the relocation thereof in the manner provided herein and to save harmless the state, county, city or town from the payment of the same or any part thereof. Such bond shall be in a penal sum of double the estimated amount of the expenses, costs and damages referred to above, such estimate in case of a state highway to be made by the state highway committee, in case of a county road or permanent highway, to be made by the board of county commissioners and in case of a street or alley of a town or city of the fourth class, to be made by the city or town council thereof. Said bond shall be approved by the state highway committee when the road to be affected shall be a state highway, and in all other cases by a judge of the superior court in which the order or decree of public use was entered. In such condemnation suit the State of Washington shall be made a party defendant when the road affected shall be a state highway; if the road shall be a county road or permanent highway the county in which said road or permanent

Surety bond.

Relocation and reconstruction.

Amount of bond.

State, county or city defendants in condemnation suit.

highway is situated shall be made a party defendant and when any street or alley in any town or city of the fourth class shall be affected such city or town shall be made a party defendant. Any person or corporation may acquire the right to overflow as against the owner of the fee in any such highway, road, street or alley by making the owner of such fee, or of any part thereof, a party defendant in the condemnation suit provided for herein, or by instituting a separate condemnation suit against any such owner; the damages sustained by any such owner as a result of the overflow of any such highway, road, street or alley to be determined as in other condemnation cases, separate and apart from any damage sustained by the state, county, city or town.

Damages.

Passed the Senate February 15, 1929.

Passed the House March 6, 1929.

Approved by the Governor March 20, 1929.

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## CHAPTER 155.

[S. B. 130.]

### SALE OF ABANDONED FISH HATCHERY LANDS.

AN ACT providing for the sale of certain lands of the State of Washington.

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

SECTION 1. That the following described tracts of land, heretofore acquired by the department of fisheries and game of the State of Washington for fish hatchery purposes, having now been abandoned for such use, are hereby declared to constitute a part of the public domain of the State of Washington:

Hatchery  
lands  
abandoned.