

be paid or allowed either in cash, bonds, or otherwise, for any lands adequately restocked with young growth.

Passed the Senate February 6, 1939.

Passed the House March 7, 1939.

Approved by the Governor March 12, 1939.

CHAPTER 107.

[S. B. 111.]

STORAGE OF WATER.

AN ACT relating to water and water rights and works and structures for the control and storage of water and the flowage thereof, and to the establishment of the water level of lakes and the jurisdiction of the superior courts in connection therewith, and amending section 36 of chapter 117, Laws of 1917, and declaring an emergency.

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

SECTION 1. That section 36, chapter 117, Laws of 1917, (section 7388, Remington's Revised Statutes) be and the same is hereby amended to read as follows:

Section 36. Any person, corporation or association intending to construct any dam or controlling works for the storage of ten acre-feet or more of water, shall before beginning said construction, submit plans and specifications of the same to the State Supervisor of Hydraulics for his examination and approval as to its safety. Such plans and specifications shall be submitted in duplicate, one copy of which shall be retained, as a public record, by the State Supervisor of Hydraulics, and the other returned with his approval or rejection endorsed thereon. No such dam or controlling works shall be constructed until the same or any modification thereof shall have been approved as to its safety

Amends
§ 7388 Rem.
Rev. Stat.

Specifica-
tions to be
submitted
for approval.

by the State Supervisor of Hydraulics. Any such dam or controlling works constructed in any manner other than in accordance with plans and specifications approved by the State Supervisor of Hydraulics shall be presumed to be a public nuisance and may be abated in the manner provided by law, and it shall be the duty of the prosecuting attorney of the county wherein such dam or controlling works, or the major portion thereof, is situated to institute abatement proceedings against the owner or owners of such dam or controlling works, whenever he is requested to do so by the State Supervisor of Hydraulics.

SEC. 2. Any ten or more owners of real property abutting on any meandered lake in the State of Washington may petition the superior court of the county in which such lake may be wholly situated for an order to provide for the regulation of the outflow of such lake in order to maintain a certain water level therein, in the interests of flood control, and said superior court is hereby authorized, after hearing, to make and enter an order fixing the water level thereof and directing the State Supervisor of Hydraulics to regulate the outflow therefrom for the purpose of maintaining such water level so fixed: *Provided*, That this section shall not apply to any meandered lake or reservoir used for the storage of water for irrigation or other beneficial purposes: *Provided further*, That this section shall not apply to lakes navigable from the sea.

Petition of
abutting
owners on
meandered
lake.

SEC. 3. Such petition shall contain a complete description of the property surrounding said lake with the number of front feet contained in each tract with the name of the owner thereof and his address together with a brief statement of the reasons and necessity for such application; that the level sought to be established will in no wise interfere with the navigability of said lake or in any manner affect or

interfere with fish or game fish which may be then contained or may thereafter be deposited in said lake, but that in order to protect fish or game fish in said lake the construction of fish ladders or other devices may be required to conserve and protect such fish or game fish, then in that event the property owners to be benefited by the establishment of said water level in such lake shall be required to pay the cost thereof, in proportion to lineal feet of water front owned by each.

Form of
petition.

SEC. 4. The petition to the superior court shall be entitled "In the Matter of fixing the level of Lake in.....

County, Washington," and shall be filed with the clerk of the court, and a copy thereof, together with a copy of the order fixing the time for hearing said petition, shall be served upon each owner of property abutting on said lake not less than ten (10) days prior to the date of such hearing. Like copies shall also be served upon the Director of the Department of Fisheries, the Director of the Department of Game and the Supervisor of Hydraulics, all of the State of Washington.

Hearing and
order.

SEC. 5. At the hearing before the superior court, evidence shall be introduced in support of the petition and all interested parties may be heard for or against said petition, at the conclusion of which the court shall make and enter findings and conclusions and enter a final order granting or refusing such petition or application, and in the event such petition is granted shall fix the water level to be maintained and direct the Supervisor of Hydraulics of the State of Washington to regulate and control the outflow of said lake so as to properly maintain said water level whenever the proper control devices shall have been installed.

Protection
of fish.

SEC. 6. In the event the court shall find that to protect fish and game fish in said lake that fish

ladders or other devices should be constructed there-in or that other construction shall be necessary in order to maintain the determined lake level, the court shall find the proper device to be constructed, the probable cost thereof and by its order and judgment shall apportion the cost thereof among the persons whose property abuts on said lake in proportion to the lineal feet of waterfront owned by each, which sum so found shall constitute a lien against said real property and shall be paid to the county treasurer and by him placed in a special fund to be known as "Lake..... Improvement Fund." The Supervisor of Hydraulics shall appoint a suitable person to be compensated by the property owners to regulate the determined level as decreed by the court.

SEC. 7. Such improvement or device in said lake for the protection of the fish and game fish therein shall be installed by and under the direction of the board of county commissioners of said county with the approval of the respective Directors of the Department of Fisheries, the Department of Game and the Director of Hydraulics of the State of Washington and paid for out of the special fund provided for in section 5 hereof.

Installment
of fish
protection
device.

SEC. 8. Any person aggrieved by the order of judgment of the superior court may appeal to the supreme court in the same manner as in other civil actions.

Appeal from
judgment.

SEC. 9. This act is necessary for the immediate preservation of the public peace, health and safety and shall take effect immediately.

Effective
immediately.

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