

CHAPTER 210.

[S. B. 182.]

SEWER DISTRICTS.

AN ACT relating to sewer districts, providing for the establishment, operation and regulation thereof, for the acquisition and construction of facilities therefor, providing for the payment for such facilities by issuance of general obligation bonds and revenue bonds, and defining the powers and duties of such districts and of their sewer commissioners and of other public officials, and of other municipal corporations in connection therewith.

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

SECTION 1. Sewer districts for the acquirement, construction, maintenance, operation, development and regulation of a system of sewers, including treatment and disposal plants and all necessary appurtenances and providing for additions and betterments thereto, are hereby authorized to be established in the various counties of this state. Such districts may include within their boundaries portions or all of one or more political sub-divisions, including water districts, but not including any portion of any incorporated cities or towns.

Co. sewer districts authorized.

Area of district.

SEC. 2. For the purpose of formation of such sewer districts, a petition shall be presented to the Board of County Commissioners of the county in which said proposed sewer district is located, which petition shall set forth the object for the creation of the said district, shall designate the boundaries thereof and set forth the further fact that the establishment of said district will be conducive to the public health, convenience and welfare and will be of benefit to the property included therein. Said petition shall be signed by at least twenty-five per cent (25%) of the qualified electors residing within the district described in the said petition. The said petition shall be filed with the County Auditor, who shall,

Formation.

Petition.

Contents.

Signatures required.

Filed with Co. Auditor.

Examination
by Auditor.

within ten (10) days examine the signatures thereof and certify to the sufficiency or insufficiency. For such purpose the County Auditor shall have access to all registration books in the possession of the officers of any political sub-division in such proposed district. No person having signed such a petition shall be allowed to withdraw his name therefrom after the filing of the same with the County Auditor. If such petition shall be found to contain a sufficient number of signatures, the County Auditor shall transmit the same, together with his certificate of sufficiency attached thereto to the Board of County Commissioners. . If such petition is certified to contain a sufficient number of signatures, then at a regular or special meeting of the Board of County Commissioners of such county, the said County Commissioners shall cause to be published for at least once a week for two (2) successive weeks in some newspaper printed and published in said county, and in case no such newspaper be printed or published in such county, then at least once a week for two (2) successive weeks in some newspaper of general circulation therein, giving notice that such a petition has been presented, stating the time of the meeting at which the same shall be presented, and setting forth the boundaries of said proposed district.

Certificate of
sufficiency.

Publication
of notice of
petition.

Contents.

Hearing.

Objections.

Final
hearing.

Findings.

SEC. 3. When such a petition is presented for hearing, the Board of County Commissioners shall hear the same or may adjourn said hearing from time to time not exceeding one (1) month in all. Any person, firm or corporation may appear before the said Board of County Commissioners and make objections to the establishment of the said district or the proposed boundary lines thereof. Upon a final hearing said Board of County Commissioners shall make such changes in the proposed boundary lines as they deem to be proper and shall establish and define such boundaries and shall find whether the proposed

sewer district will be conducive to the public health, welfare and convenience and be of special benefit to the land included within the said boundaries of said proposed district so established by the said Board of County Commissioners. No lands which will not, in the judgment of said Board, be benefited by inclusion therein, shall be included within the boundaries of said district as so established and defined, and no change shall be made by the said Board of County Commissioners in the said boundary lines to include any territory outside of the boundaries described in the said petition, except that the boundaries of any proposed district may be extended by the Board of County Commissioners at such hearing to include other lands in said county upon a petition signed by the owners of all of the land within the proposed extension.

Fix
boundaries.

SEC. 4. Upon entry of the findings of the final hearing of the said petition by the said County Commissioners of such county, if they find said proposed sewer system will be conducive to the public health, welfare and convenience and be of special benefit to the land included within the boundaries of the said proposed district, they shall by resolution call a special election to be held not less than thirty (30) days, and not more than sixty (60) days from the date of such resolution, and shall cause to be published a notice of such election at least once a week for four (4) successive weeks in a newspaper of general circulation in the county in which said proposed sewer district is located, which notice shall set forth the hours during which such polls will be open, boundaries of the proposed sewer district as finally adopted by the said County Commissioners and the object to [of] such election, and the said notice shall also be posted for ten (10) days in ten (10) public places in said proposed sewer district. In submitting the said proposition to the voters for their approval or rejection,

Election by
resolution.

Publication
of notice of
election.

Notices
posted.

Ballot contents.

such proposition shall be expressed on the ballots in the following terms:

Sewer District Yes

Sewer District No

giving in each instance the name of such district as may be decided by the Board of County Commissioners. There shall not be less than one (1) polling place in each precinct in such district.

Procedure when two or more petitions.

SEC. 5. Whenever two (2) or more petitions for the formation of a sewer district shall be filed as herein provided, the petition describing the greater area shall supersede all others, and an election shall first be held thereunder, and no lesser sewer district shall ever be created within the limits in whole or in part of any other sewer district.

Majority vote to establish.

SEC. 6. If at such election a majority of the voters voting upon such proposition shall vote in favor of the formation of such district, the County Election Board shall so declare in its canvass of the returns of such election, and such sewer district shall then be and become a municipal corporation of the State of Washington, and the name of such sewer district shall be "..... Sewer District" (inserting the name appearing on the ballot).

Shall be municipal corporation.

Commissioners to be elected.

SEC. 7. At the same election at which the proposition is submitted to the voters as to whether the sewer district shall be formed, three (3) sewer commissioners shall be elected to hold office respectively for the terms of, one (1), two (2) and three (3) years. Until their respective successors are elected and qualified, the term for each nominee for Sewer Commissioner shall be expressed on the ballot. Thereafter in Class "A" and first-class counties, as provided by chapter 53 of the Laws of 1923 as amended (sections 5143, 5144, 5147 and 5148 of Remington's Revised Statutes), there shall be held each year an election for a Sewer Commissioner to hold

Term of office.

Elections in Class A and 1st Class Co's.

office for three (3) years and until his successor is elected and qualified. And thereafter, in all counties other than Class "A" and first-class as provided by chapter 279, Laws of 1927 as amended (sections 5150 and 5152 of Remington's Revised Statutes), there shall be held each year an election for a Sewer Commissioner to hold office for three (3) years and until his successor is elected and qualified.

Election in other Co's.

SEC. 8. Nominations for Sewer Commissioners shall be by petition of at least ten per cent (10%) of the qualified electors of such sewer district, who shall be qualified electors. Such petition shall be filed in the County Auditor's office of the county in which such district is located at least thirty (30) days prior to such election, provided that in the event of a vacancy caused by death, resignation or otherwise, such vacancy shall be filled by appointment by a majority vote of the remaining Board of Sewer Commissioners until the next regular election for Sewer Commissioners. Said County Election Board shall designate in the notice of election whether such election be a general or special election, the time of opening and closing of polls, and the place of voting, but in no event shall there be less than one (1) voting place in each precinct in the sewer district. The polls shall be open at every election held by said sewer district at least from one o'clock p. m. to eight o'clock p. m., but the polls may be kept open for a longer period of time if so ordered. The time of opening and closing the polls must be stated in the notice of election and the polls shall be opened and closed in accordance with such notice. Any person residing in said sewer district who is at the time of holding of any election, a qualified voter, shall be entitled to vote at any election held in such sewer district.

Nomination by petition.

Petition filed.

Vacancies.

Notice of election.

Contents.

Persons qualified to vote.

All expense of elections for the formation of such sewer districts shall be paid by the county in which said election is held and such expenditure is hereby

Expense of election.

declared to be for a county purpose, and the money paid out for such purpose shall be repaid to such county by the sewer district if formed.

Organization of Board. **SEC. 9.** When the said sewer district shall be created as hereinbefore provided for, the officers of such district shall be a Board of Sewer Commissioners consisting of three (3) members elected as provided in section 7 of this act and said Board of Sewer Commissioners shall annually elect one (1) of their number as President and another of their number as Secretary of said Board. All Sewer Commissioners shall serve without compensation, except that the Secretary of the said Board of Sewer Commissioners may be paid a reasonable sum for the clerical services performed by him. The Board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book or books kept for such purpose which shall be public records.

No compensation.

Exception. Secretary.

Adopt rules.

Eminent domain. **SEC. 10.** All sewer districts organized under the provisions of this act shall be and are hereby authorized to acquire by purchase and condemnation, all lands, property rights, water, water rights, leases or easements, both within and without the boundaries of the district, necessary for the purposes of the sewer district, and to exercise the right of eminent domain in the acquirement or damaging of all land, property rights, water, water rights, leases and easements, both within and without the boundaries of the district, necessary in carrying out the purposes for which said district shall have been created. Such right of eminent domain shall be exercised in the same manner and by the same procedure as is or may be provided by law for cities of the third class, except in so far as such law may be inconsistent with the provisions of this act, and except that all assessment or reassessment rolls provided by law to be prepared and filed by Eminent Domain Commissioners or

Procedure.

Commissioners appointed by the Court shall be prepared and filed by the sewer district, and the duties devolving upon the City Treasurer under said law be imposed upon the County Treasurer for the purposes of this act; to construct, condemn and purchase, purchase, acquire, add to, maintain and supply systems of sewers for the purpose of furnishing such sewer district and inhabitants thereof, with an adequate system of sewers for all uses and purposes public and private, including the drainage of public highways, streets and roads with full authority to regulate and control the use and operation thereof and the service rates to be charged. And for the purposes aforesaid, it shall be lawful for any sewer district so organized in this state to conduct sewage throughout such sewer district and throughout other political sub-division within such district and to construct and lay sewer pipe along and upon public highways, roads and streets within and without such district and to condemn and purchase or acquire lands and rights of way necessary for such sewer pipe. Such sewer district is hereby authorized and empowered to erect and build sewage treatment plants either within or without the boundaries of such district, and any such sewer district shall have the right to acquire by purchase or condemnation, properties or privileges necessary to be had to protect any and all lakes, rivers or other water courses and also other areas of land from pollution either from its sewers or its sewage treatment plant or plants, and to compel all property owners within the area served by such system of sewers to connect their private drain and sewer systems with such system of sewers of the sewer district.

Court to
appoint
Eminent
Domain
Commis-
sioners.

Duties of Co.
Treasurer.

Rights of
district.

Powers.

SEC. 11. It shall be the duty of the Sewer Commissioners of every sewer district before creating any improvements hereunder or submitting to vote any plan for incurring any indebtedness to consider and determine upon and adopt the comprehensive

Duties of
Commis-
sioners.

Adopt plan.

Investigation.

Fix and collect rates.

Construction and equipment.

Employ professional assistance.

Plan adopted by resolution.

scheme or plan for a system of sewers for such district for the purposes authorized in this act. For such purposes the Sewer Commissioners shall investigate the several portions and sections of such sewer district in regard to a system of sewers; shall examine and investigate, determine and select a scheme or plan for a system of sewers for such district suitable and adequate for present and future needs thereof; shall consider and determine a general system or plan for creating such system of sewers and the rates and assessments necessary therefor; to provide for the collection and disposal of sewage and industrial and other liquid wastes produced within the district; to include provision for the drainage of public highways, streets and roads as part of such comprehensive scheme or plan; to provide for the construction of all appurtenances thereto, including laterals, trunk sewers, intercepting sewers, syphons, pumping stations, treatment plants and other methods of disposal of sewage; to maintain, operate and repair same and do all other things necessary in connection therewith; to provide the method of distributing the cost and expense of the creation and operation thereof against such sewer district and against utility local improvement districts within such sewer district for any purpose authorized in this act; and including any such utility local improvement district lying wholly or partially within the limits of any other political sub-division included in such sewer district; and to determine the whole or such part of the cost and expenses to be paid from sewer revenue bonds as in this act provided. The Commissioners may employ such engineering and legal services as in their discretion is necessary in carrying out the objects and purposes of this act.

Such general comprehensive scheme and plan, when finally determined upon by such Board of Sewer Commissioners, shall be by them adopted by

resolution, and submitted to the County Engineer or other engineer designated by the County Commissioners of the county in which the sewer district is located and to the Director of Health, and said comprehensive scheme or plan must be approved in writing by such Engineer and the Director of Health before being submitted at a general or special election as hereinafter provided.

Plan submitted to Engineer and Health Officer.

Approval.

SEC. 12. No expenditure for the carrying on of any part of such plan shall be made by the Sewer Commissioners other than the necessary salaries of engineers, clerical and office expenses of such sewer district, and the cost of engineering, surveying, preparation and collection of data necessary for the making and adoption of a general scheme of improvements in such sewer district unless and until such general scheme of improvements has been so officially adopted by the Sewer Commissioners and ratified by the affirmative vote of a majority of the voters of such sewer district voting thereon at the election which shall be held for such purpose.

Expenditures by Commission itemized.

SEC. 13. After adoption by such Board of Sewer Commissioners and after approval by such Engineer and the Director of Health as provided above, it shall then be submitted at a general or special election, as specified in said resolution adopted as above mentioned, to the qualified voters within such district for their ratification or rejection. Notice of such election shall be given in accordance with the general election laws applicable to the county in which the sewer district is situated. If at such election a majority of the votes cast upon such question shall be in favor of the adoption thereof, the same shall thereupon be ratified and adopted and proclamation thereof made by the Sewer Commissioners.

After adoption plan submitted to electors.

Notice.

Proclamation.

SEC. 14. The Sewer Commissioners may submit at the same election at which the proposition to adopt

Indebtedness
submitted.

the comprehensive plan or scheme is submitted, or at any general or special election, a proposition that said sewer district incur a general indebtedness for the construction of any part or all of said comprehensive plan. Such proposition to incur indebtedness shall be submitted so as to enable the voters to vote for or against the same, independent of any vote on the proposition to adopt the comprehensive plan or scheme. If such general indebtedness is to be incurred, the amount of such indebtedness and the terms thereof shall be included in the proposition submitted to the qualified voters as aforesaid, and such proposition, to be effective, shall be adopted and assented to by three-fifths ($\frac{3}{5}$) of the qualified voters of the said sewer district voting on said proposition at said election.

Vote
necessary.

Powers after
plan adopted.

SEC. 15. Whenever a proposition has been adopted as aforesaid, the Sewer Commissioners shall have power to proceed forthwith to carry out said general scheme or plan to the extent specified in the proposition to incur such general indebtedness.

Revenue
bond
proposal
submitted.

SEC. 16. Such Commissioners may submit at the same election at which the proposition to adopt the comprehensive plan is submitted, or at any other general or special election, a proposition that such sewer district issue revenue bonds for the construction or other costs of any part or all of said comprehensive plan. Such proposition to issue revenue bonds shall be submitted so as to enable the voters to vote for or against the same, independent of any vote on the comprehensive plan submitted to the qualified voters as aforesaid, and if revenue bonds are to be issued the amount of the revenue bonds to be issued and the terms thereof shall be included in the proposition submitted to the qualified voters as aforesaid. Such proposition for issuance of revenue bonds, to be effective shall be adopted and assented to by three-fifths ($\frac{3}{5}$) of the qualified voters of the

Vote
necessary.

said sewer district voting on such proposition at said election. Whenever a proposition has been adopted as aforesaid, the Sewer Commissioners shall have power to proceed forthwith and carry out said general plan to the extent specified.

To proceed
after favor-
able election.

SEC. 17. In the same manner as herein provided for the adoption and ratification of the original comprehensive scheme, and after the adoption of the original comprehensive scheme, a plan providing for additions and betterments to the original comprehensive scheme may be adopted and ratified. The sewer district may incur a general indebtedness for the construction of the additions and betterments in the same way the general indebtedness may be incurred for the construction of the original comprehensive scheme after submission to the voters of the entire district in the manner the original proposition to incur indebtedness may be submitted. Upon ratification the additions and betterments may be carried out by the Sewer Commissioners to the extent specified in the proposition to incur such general indebtedness. The sewer district may issue revenue bonds to pay for the construction of the additions and betterments in the same way revenue bonds may be issued for payment of the construction of the original comprehensive plan or any portion thereof.

Additions
and
betterments
submitted.

Ratification.

Revenue
bonds.

SEC. 18. Whenever the qualified voters of any such sewer district shall hereafter adopt a proposition for a sewer system as herein provided, or any additions and betterments thereto, and shall hereafter authorize a general indebtedness for all the said proposition, or any part thereof, or any additions and betterments thereto or for refunding in whole or in part bonds theretofore issued, general sewer bonds for the payment thereof may be issued as hereinafter provided. The said bonds shall be serial in form and maturity and numbered from one up consecutively. The said bonds shall bear interest not to

General
obligation
bonds.

- Interest rate. exceed six per cent (6%) per annum, payable semi-annually from date of said bonds until principal thereof is paid, with interest coupons, evidencing such interest to maturity, attached. The various
- Maturity. annual maturities shall commence with the second year after the date of issue of said bonds, and shall as nearly as practicable be in such amounts as will, together with the interest on all outstanding bonds be met by an equal annual tax levy for the payment of said bonds and interest: *Provided*, That only the
- Denomina- tion of bonds. bond numbered one (1) of any issue shall be of a denomination other than a multiple of one hundred dollars (\$100).
- Maximum bond period. Bonds issued under this act shall never be issued to run for a longer period than thirty (30) years from the date of the issue and shall as near as practicable be issued for a period which will be equivalent to the life of the improvement to be acquired by the issue of the bonds.
- Bond form. The bonds shall be signed by the presiding officer of the Board of the Sewer Commissioners and shall be attested by the Secretary of the said Board under the seal of the sewer district, and the interest coupons shall be signed by the facsimile signature of the presiding officer of the Board of Sewer Commissioners and shall be attested by the facsimile signature of the Secretary of the Board of Sewer Commissioners.
- Levy. There shall be levied by the officers or governing body now or hereafter charged by law with the duty of levying taxes in the manner provided by law an annual levy sufficient to meet the annual or semi-annual payments of principal and interest on the said bonds maturing as herein provided upon all taxable property within such sewer district.
- Sale of bonds. Said bonds shall be sold in such manner as the Sewer Commissioners shall deem for the best interest of the sewer district, and at a price not less than par and accrued interest.

SEC. 19. Whenever the qualified voters of any such sewer district shall adopt a proposition for a sewer system as herein provided, and shall hereafter authorize sewer revenue bonds to pay for said proposition or any part thereof or any additions and betterments thereto, or for refunding in whole or in part sewer revenue bonds theretofore issued, sewer revenue bonds may be issued as hereinafter provided. Said bonds shall be either registered as to principal only or shall be bearer bonds, shall be in denominations of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); shall be numbered from one (1) up consecutively; shall bear the date of their issue; shall be payable serially up to a maximum period of not to exceed thirty (30) years; shall bear interest at a rate not to exceed six per cent (6%) per annum from date of said bonds until principal thereof is paid, interest payable semi-annually and evidenced to maturity by coupons attached to said bonds; shall be executed by the presiding officer of the Board of Sewer Commissioners and attested by the Secretary thereof and the seal of the district thereto affixed; and may have facsimile signatures of said chairman or vice-chairman and Secretary imprinted on the interest coupons in lieu of original signatures.

Revenue bonds.

Denomination.

Maximum period.
Interest rate.

Bond form.

SEC. 20. The Sewer Commissioners shall have power and are required to create a special fund, or funds, for the sole purpose of paying the interest and principal of such bonds, as herein provided into which special fund or funds the said Sewer Commissioners shall obligate and bind the sewer district to set aside and pay a fixed proportion of the gross revenues of the system of sewers, or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount without regard to any fixed proportion, and such bonds and the interest thereof shall be payable only out of such special fund

Special fund created.

Restrictions.

Lien against
revenues.

or funds, and shall be a lien and charge against all revenues, including payments received from utility local improvement districts, if any, such lien to be superior to operating and maintenance expenses.

Payments to
special fund.

SEC. 21. In creating any such special fund or funds the Sewer Commissioners of such sewer district shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants or other indebtedness,

Proportion of
revenues.

and shall not set aside into such special fund a greater amount or proportion of the revenue and proceeds than in their judgment will be available over and above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Any such bonds, and the interest thereon, issued against any such fund as herein provided, shall be a valid claim of the holder thereof only as against the said special fund and its fixed proportion or amount of the revenue pledged to such fund, and shall not constitute an indebtedness of such sewer district within the meaning of the constitutional provisions and limitations. Each such bond or warrant shall state upon its face that it is payable from a special fund, naming the said fund and the resolution creating it. Said bonds shall be sold in such manner as the Sewer Commissioners shall deem for the best interests of the sewer district, either at public or private sale and at any price, but not at any price where the effective cost of money to the sewer district shall exceed seven per cent (7%) per annum, and the said Commissioners may provide in any contract for the construction and acquirement of the proposed improvement that payment therefor shall be made in such bonds at par value thereof.

Lien of
bonds.

Sale of
bonds.

Limitations.

When any such special fund shall have been heretofore or shall be created and any such bonds shall

have been heretofore or shall hereafter be issued against the same, a fixed proportion or a fixed amount out of and not to exceed such fixed proportion, or a fixed amount without regard to any fixed proportion, of revenue shall be set aside and paid into said special fund as provided in the resolution creating such fund. In case any sewer district shall fail thus to set aside and pay said fixed proportion or amount as aforesaid, the holder of any bond against such special fund may bring suit or action against the sewer district and compel such setting aside and payment.

Condition.

Right of action.

SEC. 22. The Sewer Commissioners of any sewer district, in the event that such sewer revenue bonds are issued against the revenues of such system of sewers, shall provide for revenues by fixing rates and charges for the furnishing of sewerage disposal service to those receiving such service. Such rates and charges are to be fixed as deemed necessary by such Sewer Commissioners, so that uniform charges will be made for the same class of service. Such rates are to be made on a monthly basis. The total revenues shall be so estimated and based to be sufficient to take care of costs of maintenance, operation, interest and principal amortization requirements and other charges.

To fix rates and charges.

Monthly basis.

Rate basis.

SEC. 23. The Sewer Commissioners shall enforce collection of such sewerage disposal service charges against property owners receiving such services, such charges being deemed charges against the property served, by addition of penalties of not more than ten per cent (10%) thereof in cases of failure to pay said charges at times fixed by resolution. Said Commissioners may provide by resolution that where such charges are delinquent for any specified period of time, the sewer district shall certify such delinquencies to the County Treasurer of the county in which said district is situated and such charges, and

Commissioners to enforce collection.

Penalties for delinquencies.

Certify delinquencies to Treasurer.

Interest on
delinquen-
cies.

any penalties added thereto, and interest thereon at the rate of not more than eight per cent (8%) per annum, shall be a lien against the properties upon which said service was received, subject only to the lien for general taxes.

Lien.

Right to fore-
close lien.

Procedure.

SEC. 24. Such district shall have the right, at any time after such charges and penalties are delinquent for a period of sixty (60) days or more, to bring suit in foreclosure by civil action in the Superior Court of the State of Washington in the county in which such district is situated. In such suit the court may allow, in addition to the costs, and disbursements provided by statute, such an attorneys fee as the court may adjudge reasonable. Such suit or action shall be deemed to be a proceeding in rem, and the action may be brought in the name of such district against an individual, or against all of those who are delinquent in one action, and the statutes and rules of the Court shall control as in other civil actions.

Proceeding
in rem.

Powers of
Commis-
sioners.

SEC. 25. The Sewer Commissioners shall have the power to create and fill positions necessary for the operation of such districts and fix salaries and surety bonds thereof. The superintendent or person charged with the management, operation and maintenance of the system of sewers, however, shall, at the option of the County Engineer or other engineer designated by the County Commissioners, be appointed subject to such County Engineer or such other engineer's approval.

U. L. I.
districts
authorized.

SEC. 26. Any sewer district shall have the power to establish utility local improvement districts within its territory as hereinafter provided, and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty (20) years on all property specially benefited by any local improvement, on the basis of the special

Installment
payments.

benefits to pay in whole or in part the damages or costs of any improvements ordered in such sewer district. The levying, collection and enforcement of all public assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection and enforcement of local improvement assessments by cities of the first class, in so far as the same shall not be inconsistent with the provisions of this act. The duties devolving upon the City Treasurer under said laws are imposed upon the County Treasurer for the purposes of this act. The mode of assessment shall be in the manner to be determined by the Sewer Commissioners by resolution. It must be specified in any petition for the establishment of a utility local improvement district and in the comprehensive scheme or plan or amendment thereto previously duly ratified at an election, that the assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds. Assessments in any utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of any comprehensive scheme or plan payable by issuance of revenue bonds. No warrants or bonds shall be issued in any such utility local improvement district, but the collection of interest and principal on all assessments in such utility local improvement district, when collected, shall be paid into the revenue bond fund.

Assessments.

Duties of Co. Treasurer.

Manner of Assessment.

Assessments paid in special fund.

SEC. 27. Whenever a petition signed by the owners of at least fifty-one per cent (51%) of the area of the land in the district, to be therein described, shall be filed with the Sewer Commissioners, asking that any portion of the general plan adopted be ordered, and defining the boundaries of the utility local improvement district to be created and to pay in whole or in part the cost thereof, it shall be the duty of the Sewer Commissioners to fix a date for hearing

Petition by majority for alteration.

Contents.

Creating U. L. I. D.

on such petition. Notice of the time and place of the hearing shall be given by publication of a notice of the hearing in a newspaper of general circulation throughout the sewer district once a week for two (2) consecutive weeks before the date of the hearing, and notice shall also be given by mailing at least fifteen (15) days before the hearing similar notice to the owners or reputed owners of the land in such proposed district as they appear on the books of the County Assessor of the county in which the sewer district is located.

SEC. 28. When such petition is presented for hearing the board of Sewer Commissioners shall hear objections to such formation from any person, firm or corporation affected by the formation of such district. At such hearing the Sewer Commissioners may alter the boundaries of such proposed district and prepare and adopt detailed plans of any such utility local improvement and declare the estimated cost thereof.

If the Sewer Commissioners shall find that such district shall be formed they shall by resolution order such improvement, provide the general funds of the sewer district to be applied thereto, acquire all necessary lands therefor, pay all damages caused thereby and commence in the name of the sewer district such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain award, as may be necessary to entitle said sewer district to proceed with such work. Said Sewer Commissioners shall thereafter proceed with such work and shall make and file with the County Treasurer, its roll levying special assessments in the amount to be paid by special assessment against the property situated within such utility local improvement district in proportion to the special benefits to be derived by the property in such utility local improvement district from such improvement.

Notice of hearing.

Publication.

By mailing.

Hearing.

Objections.

Resolution to improve.

Other duties.

File assessment roll.

SEC. 29. Before the approval of such roll a notice shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in such utility local improvement district, stating that such roll is on file and open to inspection in the office of the Secretary of the Sewer Commissioners, and fixing the time not less than fifteen (15) or more than thirty (30) days from the date of the first publication of such notice within which protests must be filed with the Secretary of said Sewer Commissioners against any assessments shown thereon, and fixing a time when a hearing shall be held by said Commission on said protests. Such notice shall also be given by mailing at least fifteen (15) days before the hearing, similar notice to the owners or reputed owners of the land in such utility local improvement district as they appear on the books of the County Assessor of the county in which the sewer district is located.

Publication of notice of assessment roll.

Contents.

Notice by mail.

SEC. 30. At such hearing on a protest to an assessment, or any adjournment thereof, the Sewer Commissioners shall have power to correct, revise, raise, lower, change or modify such roll, or any part thereof, and to set aside such roll, and order that such assessment be made de novo, as to such body shall appear equitable and just and may then by resolution approve the same. In the event of any assessment being raised a new notice similar to such first notice shall be given, after which final approval of such roll may be made by the Sewer Commissioners. Whenever any property shall have been entered originally upon such roll and the assessment upon any such property shall not be raised, no objection thereto shall be considered by the Sewer Commissioners or by any Court on appeal unless such objection be made in writing at, or prior, to the date fixed for the original hearing upon such roll.

May alter or revise at hearing.

New notice in case of increase.

Objections deemed waived.

Additional if
inadequate.

SEC. 31. In the event that any portion of the system after its installation in such utility local improvement district is not adequate for the purpose for which it was intended, or that for any reason changes, alterations or betterments are necessary in any portion of the system after its installation, then such district, with boundaries which may include one or more existing utility local improvement districts, may be created in the sewer district in the same manner as is provided herein for the creation of utility local improvement districts. Upon the organization of such a utility local improvement district as provided for in this section the plan of the improvement and the payment of the cost of the improvement shall be carried out in the same manner as is provided herein for the carrying out of and the paying for the improvement in the utility local improvement districts previously provided for in this act.

Creation
same as
original
district.

Decision may
be reviewed
by court.

SEC. 32. The decision of the Sewer Commission upon any objections made within the time and in the manner herein prescribed, may be reviewed by the Superior Court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the Secretary of said Sewer Commission and with the Clerk of the Superior Court in the county in which such sewer district is situated within ten (10) days after the resolution confirming such assessment roll shall have become published, and such notice shall describe the property and set forth the objections of such appellant to such assessment. Within ten (10) days from the filing of such notice of appeal with the Clerk of the Superior Court, the appellant shall file with the Clerk of said Court, a transcript consisting of the assessment roll and his objections thereto, together with the resolution confirming such assessment roll and the record of the Sewer District Com-

Manner of
appeal.

Contentr. of
notice.

Record.

mission with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such Secretary of said Sewer Commission and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the County Clerk for the preparation and certification of transcripts on appeal to the Supreme Court in civil actions. At the time of the filing of the notice of appeal with the Clerk of the Superior Court a sufficient bond in the penal sum of two hundred dollars (\$200), with sureties thereon as provided by law for appeals in civil cases, shall be filed conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the sewer district is put by reason of such appeal. The Court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three (3) days after such transcript is filed in the Superior Court, as aforesaid, the appellant shall give written notice to the Secretary of such sewer district, that such transcript is filed. Said notice shall state a time, not less than three (3) days from the service thereof, when the appellant will call up the said cause for hearing. The Superior Court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury, and such cause shall have preference over all civil causes pending in said court, except proceedings under an act relating to eminent domain in such sewer district and actions of forcible entry and detainer. The judgment of the Court shall confirm, correct, modify or annul the assessment in so far as the same affects the property of the appellant. A certified copy of the decision of the Court shall be filed with the officer who shall

Records
furnished by
Secretary.

Fees.

Appeal bond.

Additional
bond.

Action to
have
preference.

Judgment.

Officer to
modify ac-
cording to
judgment.

Appeal to
Supreme
Court.

Procedure.

Order of
Supreme
Court.

Officer to
comply with
judgment.

Order of
Commission
final if no
objection
raised.

have the custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision. An appeal shall lie to the Supreme Court from the judgment of the Superior Court, as in other cases, however, such appeal must be taken within fifteen (15) days after the date of the entry of the judgment of such Superior Court, and the record and opening brief of the appellant in said cause shall be filed in the Supreme Court within sixty (60) days after the appeal shall have been taken by notice as provided in this act. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the Superior Court, or by stipulation of the parties concerned. The Supreme Court on such appeal may correct, change, modify, confirm or annul the assessment in so far as the same affects the property of the appellant. A certified copy of the order of the Supreme Court upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

SEC. 33. Whenever any assessment roll for local improvements shall have been confirmed by the Sewer Commission of such sewer district as herein provided, the regularity, validity and correctness of the proceedings relating to such improvement, and to the assessment therefor, including the action of the Sewer Commission upon such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll in the manner and within the time provided in this act, and not appealing from the action of the Sewer Commission in confirming such assessment roll in the manner

and within the time in this act provided. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment, or the sale of any property to pay such assessment, or any certificate of delinquency issued therefor, or the foreclosure of any lien issued therefor: *Provided*, That this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds:

No suit if objection not filed.

Proviso.

Injunction: Grounds for.

(1) that the property about to be sold does not appear upon the assessment roll, or

(2) that said assessment has been paid.

SEC. 34. The territory adjoining or in close proximity to and in the same county with any sewer district, after its organization, may be annexed to and become a part of such sewer district. Such territory may either comprise or include that of one or more other sewer districts. Such annexation shall be effected in the following manner: Twenty-five per cent (25%) of the legal electors residing within the territory proposed to be annexed may petition the said Sewer Commissioners of such sewer district and cause the question to be submitted to the legal electors of the territory proposed to be annexed, whether such territory will be annexed and become a part of such adjoining sewer district.

May annex other property.

Manner of annexation.

Petition.

SEC. 35. Upon the filing of such petition with the Board of Sewer Commissioners of such sewer district, if the said Sewer Commissioners shall concur in the said petition, they shall then file such petition with the County Auditor, who shall, within ten (10) days, examine the signatures thereof and certify to the sufficiency or insufficiency thereof. If such petition shall be found to contain a sufficient number of signatures, the County Auditor shall transmit the same, together with his certificate of sufficiency attached thereto to the Board of County Commis-

Petition filed with Auditor. Examination.

Certificate.

Proviso.

sioners of the county in which the said district is located. In the event that there are no legal electors residing in the territory proposed to be annexed, such petition may be signed by such a number as appear of record to own at least a majority of the acreage in the proposed district, and the petition shall disclose the total number of acres of land in the territory proposed to be annexed and shall also contain the names of all record owners of land within the territory proposed to be annexed.

Procedure.

SEC. 36. Upon the filing of such petition for annexation with the Board of Sewer Commissioners of the said sewer district, if the Sewer Commissioners shall be satisfied as to the sufficiency of the petition and shall concur in the said petition, they shall thereupon transmit the petition, together with their certificate of concurrence attached thereto to the Board of County Commissioners of the county in which the sewer district is located. The Board of County Commissioners of such county, upon receipt from the County Auditor of a petition certified to contain a sufficient number of signatures of legal electors, or upon a receipt from the Board of Commissioners of the sewer district of a petition signed by such a number as own at least a majority of the acreage, together with a certificate of concurrence signed by the Board of Sewer Commissioners, at a regular or special meeting of the Board of County Commissioners of such county shall cause to be published for at least two (2) weeks in two (2) successive weekly issues of some weekly newspaper printed and published in said county, and in general circulation throughout the territory proposed to be annexed, and in case no such newspaper be printed or published, then at least once a week for two (2) successive weeks in some newspaper of general circulation therein, a notice that such a petition has been presented, stating the time of the meeting at

Notice of
hearing.
Publication.

which the same shall be presented, and setting forth the boundaries of the territory proposed to be annexed.

SEC. 37. When such petition is presented for hearing, the said Board of County Commissioners shall hear the same or may adjourn said hearing from time to time not exceeding one (1) month in all, and any person, firm or corporation may appear before the Board of County Commissioners and make objections to the proposed boundary lines or to the annexation of the territory described in the petition. Upon a final hearing the said Board of County Commissioners shall make such changes in the proposed boundary lines as they deem to be proper and shall establish and define such boundaries and shall find whether the proposed annexation of the said territory as established by the said Board of County Commissioners to the said sewer district will be conducive to the public health, welfare and convenience and will be of special benefit to the land included within the boundaries of the territory proposed to be annexed to the said sewer district and so established by the said Board of County Commissioners. No lands which will not, in the judgment of said Board of County Commissioners, be benefited by inclusion therein, shall be included within the boundaries of said territory as so established and defined, and no change shall be made by the said Board of County Commissioners in the said boundary lines, by including any territory outside of the boundary lines described in the petition. No person having signed such petition as herein provided for shall be allowed to withdraw his name therefrom after the filing of the same with the Board of Sewer Commissioners of said sewer district.

Hearing.

Adjournment.

Final hearing.

Findings and settlement of district.

SEC. 38. Upon the entry of the findings of the final hearing upon the said petition by the said County Commissioners of such county, if they find

the said proposed annexation of the territory to the said sewer district to be conducive to the public health, welfare and convenience and to be of special benefit to the land proposed to be annexed and included within the boundaries of the district, they shall give notice of a special election to be held within the boundaries of the territory proposed to be annexed to said sewer district for the purpose of determining whether the same shall be annexed to the said sewer district. Such notice shall particularly describe the boundaries established by the Board of County Commissioners on its final hearing of the said petition, and shall state the name of the sewer district to which the said territory is proposed to be annexed, and the same shall be published weekly for at least two (2) weeks prior to such election in a weekly newspaper printed and published within the county within which said district is located, and in case no such newspaper be printed or published, then in some newspaper of general circulation therein at least once (1) a week for two (2) successive weeks, and such notice shall be posted for the same period in at least four (4) public places within the boundaries of the district proposed to be annexed, which notice shall designate the places within the territory proposed to be annexed to said district where the said election shall be held, and shall require the voters to cast ballots which shall contain the words:

For Annexation to Sewer District
 Against Annexation to Sewer District

The said County Commissioners shall name the persons to act as judges at such election.

SEC. 39. The said election shall be held on the date designated in such notice and shall be conducted in accordance with the general election laws: *Provided*, That only qualified electors, at the date of election, residing in the territory proposed to be annexed, shall be permitted to vote at the said elec-

Notice of
special
election.

Publication.

Notice
posted.

Ballot
contents.

Only qual-
ified electors
to vote.

tion, and in the event the original petition for annexation is signed by property owners so provided for in this act then no person shall be entitled to vote at such election unless at the time of the filing of the original petition he owned land in the district of record and in addition thereto at the date of election shall be a qualified elector of the county in which such district is located. It shall be the duty of the County Auditor, upon request of the County Commissioners, to certify to the election of officers of any such election, the names of all persons owning land in the district at the date of the filing of the original petition as shown by the records of his office, and at any such election the election officers may require any such land owner offering to vote to take an oath that he is a qualified elector of the county before he shall be allowed to vote. At any election held under the provisions of this act an officer or agent of any corporation, having its principal place of business in said county and owning land at the date of filing the original petition, duly authorized thereto in writing may cast a vote on behalf of such corporation. When so voting he shall file with the election officers such a written instrument of his authority. The judge or judges at such election shall make return thereof to the Board of Sewer Commissioners, who shall canvass such return and cause a statement of the result of such election to be entered on the record of such commissioners. If the majority of the votes cast upon the question of such election shall be for annexation, then such territory shall immediately be and become annexed to such sewer district and the same shall then forthwith be a part of the said sewer district, the same as though originally included in such district.

Duty of
Co. Auditor.

Corporation
may vote.

Commis-
sioners to
canvass.

Majority
necessary for
annexation.

SEC. 40. All elections held pursuant to this act, whether general or special, shall be conducted by

Co. Election Board to supervise. Costs.

the County Election Board of the county in which the district is located. The expense of all such elections shall be paid for out of the funds of such sewer district.

Maximum levy.

SEC. 41. The Board of Sewer Commissioners are hereby authorized to levy, or cause to be levied; to carry out the purposes of this act, in addition to the levy mentioned in section 18 of this act, a general tax on all property located in said sewer district each year not to exceed two (2) mills on the assessed valuation of the property in such sewer district. Said taxes when so levied shall be certified to the proper county official for the collection of the same as other general taxes. When such money is collected it shall be placed in a separate fund and paid out on warrants of the County Auditor of the county in which the sewer district is situated and authorized by the Board of Sewer Commissioners for the purposes specified in this act.

Paid on warrants.

May contract debt.

SEC. 42. Each and every sewer district hereafter to be organized pursuant to this act, may contract indebtedness pursuant to the provisions of section 18 hereof, but not exceeding in amount, together with existing indebtedness five per centum (5%) of the value of the taxable property in said district, to be ascertained by the last assessment for state and county purposes, whenever three-fifths (3/5) of the voters voting at said election in such sewer district assent thereto, at an election to be held in said sewer district in the manner provided by this act, which election may either be a special or a general election, and the Board of Sewer Commissioners are hereby authorized and empowered to submit the question of incurring such indebtedness, and issuing negotiable bonds of such sewer district to the qualified voters of such sewer district at any time they may so order. All bonds so to be issued shall be subject

Three-fifths of voters to approve.

Bonds.

to the provisions regarding bonds as set out in section 18 of this act.

SEC. 43. The Board of Sewer Commissioners shall have authority to create and fill all positions necessary under this act and fix salaries and bonds thereof as it may by resolution provide.

Duties of Commissioners.

SEC. 44. All materials purchased and work ordered, the estimated cost of which is in excess of one thousand dollars (\$1,000) shall be let by contract. Before awarding any such contract the Board of Sewer Commissioners shall cause to be published in some newspaper in general circulation throughout the county where the district is located at least once, ten (10) days before the letting of such contract, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the Board of Sewer Commissioners subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the Board of Sewer Commissioners on or before the day and hour named therein. Each bid shall be accompanied by a certified check payable to the order of the County Treasurer for a sum not less than five per cent (5%) of the amount of the bid and no bid shall be considered unless accompanied by such check. At the time and place named such bids shall be publicly opened and read and the Board of Sewer Commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specification: *Provided, however,* That no contract shall be let in excess of the cost of said materials or work, or if in the opinion of the Board of Sewer Commissioners all bids are unsatisfactory they may reject all of them and re-advertise and in such case all checks shall be returned to the bidders. If such contract be let,

Work and materials let by contract.

Amount.

Publication of notice for bids.

Contents.

Sealed bids.

Check.

Bids publicly opened and read.

Lowest responsible bidder.

May reject and re-advertise.

Checks returned to unsuccessful bidders.

Contract and bond.

Forfeiture of check upon failure of bidder to comply.

Coupons considered warrants.

Endorsement.

Fund for district.

Other duties.

then and in such case all checks shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials or doing such work, and a bond to perform such work furnished with sureties satisfactory to the Board of Sewer Commissioners in the full amount of the contract price between the bidder and the Commission in accordance with bid. If said bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten (10) days from the date at which he is notified that he is the successful bidder, the said check and the amount thereof shall be forfeited to the sewer district.

SEC. 45. The coupons hereinbefore mentioned for the payment of interest on bonds of any sewer district shall be considered for all purposes as warrants drawn upon the general fund of the said sewer district issuing such bonds, and when presented to the Treasurer of the county having custody of the funds of such sewer district at maturity, or thereafter, and when so presented, if there are not funds in the treasury to pay the said coupons, it shall be the duty of the County Treasurer to endorse said coupons as presented for payment, in the same manner as county warrants are indorsed, and thereafter said coupons shall bear interest at the same rate as the bonds to which they were attached.

SEC. 46. The County Treasurer shall create a separate fund into which shall be paid all money received by him from the collection of taxes in behalf of such sewer district, and no money shall be disbursed therefrom except upon warrants of the County Auditor, as below provided for other funds of the sewer district. The County Treasurer shall also maintain such other special funds as may be prescribed by the sewer district, into which shall be placed such moneys as the Board of Sewer Com-

missioners may by its resolution direct, and from which disbursements shall be made upon proper warrants of the County Auditor issued against the same by authority of the Board of Sewer Commissioners.

Disbursements.

SEC. 47. Any sewer district organized under this act may be disincorporated in the same manner (in so far as the same is applicable) as is provided in sections 8914 to 8931, inclusive, of Remington's Revised Statutes, for the disincorporation of the third and fourth class cities, except that the petition for disincorporation shall be signed by not less than twenty-five per cent (25%) of the voters in the sewer district.

District may be disincorporated.

Method.

SEC. 48. Wherever economies in providing sewerage service may be affected by joint use of sewer lines, trunks, interceptors, siphons, pumping stations, treatment plants or other appurtenances, contracts may be entered into between the sewer district and any other corporate entity for the joint use of these facilities.

Joint user with other districts.

SEC. 49. 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 invalid or unconstitutional.

Partial invalidity.

Passed the Senate February 13, 1941.

Passed the House March 11, 1941.

Approved by the Governor March 24, 1941.