

## CHAPTER 157.

[S. H. B. 166.]

## DRAINAGE AND DIKING IMPROVEMENT DISTRICTS.

AN ACT relating to drainage and diking improvement districts, prescribing certain procedure to be had in case of a proposed or existing diking or drainage improvement district, lying in more than one county, and validating proceedings heretofore had in accordance with such procedure; providing for appeals to the court from the confirmation of the schedule of apportionment and levy of assessments in diking and drainage improvement districts, providing for the reimbursement to the county by the districts for judgments against such county on account of such districts, and amending Sections 1945-76, 1945-77a, 1945-94 Pierce's Code, 4226-20, 4226-22, and 4226-38 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. The decision of the Board of County Commissioners upon any objections made within the time and in the manner prescribed in Section 1945-85 Pierce's Code, 4226-30, Remington & Ballinger's Code, 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 clerk of such board and with the clerk of the superior court of the county in which such drainage or diking improvement district is situated, or in case of joint drainage or diking improvement districts with the clerk of the court of the county in which the greater length of such drainage or diking improvement system lies, within ten days after the order confirming such assessment roll shall have become effective, and such notice shall describe the property and set forth the objections of such appellant to such assessment; and, within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file

Appeal from  
decision of  
apportion-  
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sioners.

with the clerk of said court a transcript consisting of the assessment roll and his objections thereto, together with the order confirming such assessment roll, and the record of the Board of County Commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the Board of County Commissioners, 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, the appellant shall execute and file with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with good and sufficient surety, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county or the drainage or diking improvement 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 days after such transcript is filed in the superior court as aforesaid, the appellant shall give written notice to the prosecuting attorney of the county, and to the clerk of the Board of County Commissioners that such transcript is filed. Said notice shall state a time (not less than three days from the service thereof) when the appellant will call up the said cause for hearing; and the superior court of said county 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. The judgment of the court shall confirm, correct, modify or annul

the assessment insofar 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 have 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: *Provided, however,* That such appeal must be taken within fifteen 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 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. And 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. 2. Whenever any schedule of apportionment of any drainage or diking improvement district shall have been confirmed, and the assessment therefor shall have been levied, by the Board of County Commissioners, as provided by section 1945-85 Pierce's Code, 4226-30, Remington & Ballinger's Code, the regularity, validity and correctness of the proceedings relating to such improvement, and to the assessment therefor, including the action of the Board of County Commissioners upon such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner

Regularity  
and validity  
of  
proceedings  
conclusive.

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 section 1945-85 Pierce's Code, 4226-30, Remington & Ballinger's Code, and not appealing from the action of the Board of County Commissioners in confirming such assessment roll in the manner and within the time in this act provided. No proceeding 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:

1. That the property about to be sold does not appear upon the assessment roll, or
2. that said assessment has been paid.

SEC. 3. Any judgment that heretofore has been obtained or that hereafter may be obtained against a county on account of any contract lawfully made by its officials for or on behalf of any drainage or diking improvement district, or on account of the construction or maintenance of any drainage or diking system of a drainage or diking improvement district shall be collected and reimbursed to the county from said improvement district, and the amount of such judgment shall be included in the construction costs of said district: *Provided*, That if such judgment be recovered after the assessment to pay the construction costs shall have been levied, then the County Commissioners are hereby empowered and they shall make a supplemental levy upon the lands of the district, and from the funds collected under such levy, said reimbursements shall be made.

District  
liable for  
judgments  
against  
county.

SEC. 4. That section 1945-76 Pierce's Code, 4226-20 of Remington & Ballinger's Code be amended to read as follows:

Section 4226-20. At the election provided for in the preceding section, two qualified electors of the county owning land in the district shall be elected, who, with the county engineer, shall constitute the first board of supervisors of said district. The board of supervisors shall have charge of the construction and maintenance of the systems of improvement of the district, subject to the limitations hereinafter set forth, and may employ a superintendent of construction and maintenance, who may be one of the two elected supervisors. The elected supervisors may themselves labor or be employed upon the work of construction or maintenance, receiving for such labor the same compensation as other labor of like character shall receive. The engineer shall receive compensation for his services as supervisor in the maintenance of the system at the per diem rate allowed him for other work; and if he be a salaried officer such compensation shall be a charge against the district in favor of the engineer's office. The supervisor receiving the highest number of votes shall hold office until one year after the first annual election of the district and until his successor is elected and qualified, and the other supervisor shall hold office until his successor is elected at the first annual election and shall have qualified. The terms of the supervisors elected at the first election in any drainage or diking improvement district shall begin immediately upon the qualification of such officials. The terms of the supervisors elected at the annual election in such districts shall begin on the second Tuesday of January following their election; if any such official shall have failed to qualify by the 1st of February following his election his title to said office

Board of  
supervisors,  
election,  
powers and  
duties.

shall lapse and be forfeited and his place be subject to be filled by appointment by the county commissioners as hereinafter provided. Each elected supervisor shall qualify by taking the usual oath of office of county and precinct officers and by giving a bond in an amount to be fixed and with surety to be approved by the board of county commissioners. The cost of furnishing such bond shall constitute a part of the cost of maintenance of such district. On the second Tuesday of December in the year following the election hereinabove provided for and annually thereafter, there shall be elected one supervisor of such district, who shall hold office for the term of two years and until his successor is elected and qualified. Such annual election shall be held upon the same notice and under the same regulations and in the same manner as the first election hereinabove provided for: *Provided*, That in any districts established under this act, or heretofore established under chapter LXVI of the Laws of 1901, not including any city or town and not more than two thousand acres in extent including all additions thereto, notice of annual elections of supervisors shall be given by posting only. In case a vacancy occur in said board from any cause, such vacancy shall be filled by appointment by the board of county commissioners of some qualified elector owning land in the district.

Whenever any district organized under the provisions of this act contains not more than five hundred acres, or whenever a petition shall be presented to the county commissioners signed by the owners of fifty per cent of the acreage of such district praying for such action, the county engineer shall act as supervisor of the district and thereafter no board of supervisors shall be elected for such district; and in such case the allowance of all claims against the district shall be by the county commissioners.

SEC. 5. That section 1945-77a Pierce's Code, 4226-22 of Remington & Ballinger's Code be amended to read as follows:

Section 4226-22. The said board of supervisors shall, immediately upon their election and qualification, begin the construction of such system of improvement and shall proceed with the construction thereof in accordance with the plans adopted therefor. In the construction of any system of drainage, construction shall be begun at the outlet or outlets thereof and at such other points as may be deemed advisable from time to time. In the construction of any system of improvement the board of supervisors with the approval of the board of county commissioners may modify, curtail, enlarge or add to the original plans wherever the same may be found necessary or advisable in the course of actual construction. But such changes shall not in the aggregate increase the estimated cost of the entire system by more than one-fifth, and all additional or different rights of way required shall be obtained as hereinbefore prescribed. The board of county commissioners may in its discretion let the construction of said system or any portion thereof by contract, in the manner provided for letting contracts for the construction of county roads and bridges. The board of county commissioners may, upon such terms as may be agreed upon by the United States acting in pursuance of the National Reclamation Act approved June 17, 1902 (32 Statutes at Large 388), and the acts amendatory thereof and supplemental thereto, or in pursuance to any other act of Congress appropriate to the purpose, contract for the construction of the system of improvement or any part thereof, by the United States, or in co-operation with the United States therein. In such case, no bond shall be required, and the work shall be done under

Board to  
make  
improvement.

the supervision and control of the proper officers of the United States.

Unless the work of construction is let by contract as hereinbefore provided, or for such part of such work as is not covered by contract, the board of supervisors shall employ such number of men as shall be necessary to successfully carry on the work of such construction, and shall give preference in such employment to persons owning land to be benefited by the improvement.

The provisions of this section shall not be construed as denying to the supervisors, in case the construction work is left in their hands, the power to enter into an agreement with any contractor to furnish labor, material, equipment and skilled supervision, the contractor to be compensated upon the basis of a specific sum, or upon a percentage of the cost of the work, the services of the contractor to cover the use of equipment and the value of skilled supervision: *Provided, however,* That there is retained in the said board by the contract the right of termination thereof at any time, on reasonable notice, and fixing in the said contract, or reserving in said board, the right to fix the rates of wages to be paid to the men employed in said work. The board of supervisors may also let contracts in such manner and on such notice as they deem advisable for items of construction not exceeding one thousand dollars in amount of expenditures.

SEC. 6. That section 1945-94 of Pierce's Code, 4226-38, of Remington & Ballinger's Code be amended to read as follows:

Section 4226-38. When a drainage or diking system is proposed which will require a location, or the assessment of lands, in more than one county, application therefor shall be made to the board of county commissioners in each of said counties, and the county engineers shall make preliminary reports for

District in  
two or more  
counties.



their respective counties. The lines of such proposed improvement shall be examined by the county engineers of the counties wherein said improvements will lie, jointly. The hearings in regard to such improvement, provided for by sections 1945-65 and 1945-85 Pierce's Code, 4226-9 and 4226-30 of Rem. & Bal. Code shall be had by the boards of county commissioners of the two counties in joint sessions, and all other matters required to be done by the county commissioners in regard to such improvement and the improvement district shall be had and done by the boards of county commissioners of the counties wherein such system of improvements shall lie, either in joint session at such place as the said boards shall order, or by concurrent order entered into by the said boards at their respective offices. Notice of the hearings shall be given by the auditors of both counties jointly by publication in the official paper of each of said counties. The county engineer of the county wherein the greatest length of the drainage or diking system will lie, shall have charge of the engineering work and be ex-officio a member of the boards in this act provided for.

The schedule of apportionment shall be prepared in separate parts for the land in the respective counties; and that part of said roll containing the assessments upon the lands in each respective county shall be transmitted to the treasurer thereof, and the treasurer of said county shall give notice of said assessments as provided in section 1945-85 Pierce's Code, 4226-30 of Rem. & Bal. Code, and shall collect the assessments therein contained and shall also extend and collect the annual maintenance levies of said district upon the lands of said district lying in his county. The auditor of the county in which the greater length of the drainage or diking system shall lie shall act as clerk of the joint sessions of the boards of county commissioners, and shall issue the

warrants of the improvement district, and shall attest the signatures of the two boards of county commissioners on the bonds. He shall furnish to the auditor of the other county duplicate copies of the records of proceedings of such joint sessions. Duplicate records of all proceedings had and papers filed in connection with such improvement shall be kept, one with the auditor of each county. Protests or other papers filed with the auditor who is not clerk of the joint sessions shall be forwarded forthwith by him to the auditor who acts as clerk of such joint sessions. The treasurer of the said county shall register and certify and pay the warrants and the bonds, and shall have charge of the funds of the district; and to him, the treasurer of the county in which the lesser portion of such system of improvements lie, shall remit semi-annually, in time for the semi-annual warrant and bond calls, all such collections made in such other county. A drainage or diking improvement district lying in more than one county shall be designated "Joint Drainage (or Diking) Improvement District No. . . . . of . . . . . and . . . . . Counties." All proceedings in regard to joint drainage or diking improvement districts, which have heretofore been had and done substantially in accordance with the amendatory provisions of this act are hereby approved and declared to be valid.

Passed the House March 5, 1921.

Passed the Senate March 9, 1921.

Approved by the Governor March 19, 1921.