

and ought, according to the true intent and meaning of each and all its parts.

SEC. 19. All penalties recovered by the state under the provisions of this act shall be paid into the general school fund. Nothing in this act shall apply to any railroad within this state which does not exceed 150 miles in length, or to any extension or branches of such railroads, or new railroads hereafter constructed; and the building of extensions or branches of any such railroad shall not have the effect of bringing any such railroads within the provisions of this act, but this shall not be construed to exempt any railroad from the provisions of this act, as to any shipment consigned to any point in this state, beyond the line of such short road; any railroad or part of a railroad, which on the first day of March, 1897, would have been subject to the provisions of this act, shall be and continue to be subject to the same, notwithstanding any change in the operation, ownership or management thereof.

Penalties collected to be paid into the general school fund.
Exceptions.

Passed the House February 23, 1897.

Passed the Senate March 8, 1897.

Approved by the Governor March 13, 1897.

CHAPTER LXIX.

[H. B. No. 113.]

RELATING TO MUNICIPAL CORPORATIONS OF THE THIRD AND FOURTH CLASSES.

AN ACT providing for the dissolution of municipal corporations of the third and fourth classes, and declaring an emergency.

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

SECTION 1. Cities of the third and fourth class, having a population of less than four thousand inhabitants, and incorporated towns in the State of Washington, may be discontinued in the manner following:

Cities of 4,000 or less may disincorporate.

SEC. 2. Whenever a petition signed by a majority of the lawful registered voters of a city of the third and

Petition signed by majority of voters.

fourth class, containing less than four thousand inhabitants, shall be filed with the council of such city, or whenever a petition signed by a majority of the lawful registered voters of an incorporated town, shall be filed with the council of such town, it shall be the duty of such town to forthwith order an election to be held therein for the purpose of determining whether or not such corporation shall be dissolved, and for the further purpose of electing a receiver for the purpose of winding up the affairs of such city or town in case of dissolution: *Provided*, That in such cities and towns as may have no indebtedness or outstanding liabilities a receiver shall not be elected. The election provided for herein shall be at least thirty days after the filing of the petition upon which the election may be ordered.

Special election.

Where indebtedness, receiver to be chosen.

Twenty days notice.

SEC. 3. It shall be the duty of the city or town clerk, as the case may be, to give at least twenty days notice of such election. The notice shall contain a statement of the purpose or purposes for which the election is called, and the time at which it is to be held, and shall be published for at least two consecutive weeks in any weekly newspaper published in such city or town. If there be no such paper, then such notice shall be posted, and kept posted, in five of the most public places thereof for the period of at least twenty days previous to the day of election.

Form of ballots.

SEC. 4. The ballots for such election shall be printed at the expense of the corporation, and there shall be printed upon each of such ballots the words "For dissolution" in one line, and the words "Against dissolution" in another line, and in other and separate lines the names of each of the lawfully nominated candidates for receiver. In all other respects such ballots shall be in conformity with the law regulating elections in such cities and towns.

Manner of voting.

SEC. 5. Such election shall be conducted as other elections are required by law to be conducted in such cities or towns, excepting as is herein otherwise provided; and only such persons shall be qualified to vote thereat as would be competent to vote at a general municipal election thereof. The voter shall indicate his choice by affixing a designating mark after the words "For dissolution" or after the words

“Against dissolution,” as he may desire, and also by affixing such distinguishing mark opposite the name of the person for whom he desires to vote as receiver, if a receiver is to be voted for.

SEC. 6. The result of such election, together with the ballots cast, shall be certified by the election officers to the council of such city or town, which council shall canvass such returns at a meeting which shall be held one week from the day of such election, and shall declare the result, which shall be made of record in the journal of the council proceedings. If the vote “For dissolution” be a majority of the registered voters of such city or town, such corporation shall be deemed dissolved, and, except as otherwise herein provided, the powers and privileges of such corporation shall be deemed surrendered to the state, and, except as otherwise provided herein, it shall be absolved from any further duty to the state or its own inhabitants: *Provided*, That all the officers of such city or town shall continue in the exercise of all their powers until the receiver provided for in this act shall have qualified: *And provided further*, That in case no receiver is required, all the offices appertaining to such city or town shall, upon the entry of such result, forthwith cease to exist.

SEC. 7. In case of a dissolution of such corporation, the person receiving the highest number of votes for receiver shall be declared elected as such, and he shall within ten days thereafter qualify by filing with the county auditor of the county in which such city or town may be situated, a bond in penalty equal in amount to the audited indebtedness and established liabilities of such city or town, with sureties to the satisfaction of the board of county commissioners or the judge of the superior court of such county, if the commissioners be not in session, which bond shall run to the State of Washington and shall be conditioned for the faithful performance of his duties as such receiver, and the prompt payment in the order of their priority of all lawful claims against such city or town, as they may be finally established, and as funds may come into his hands with which to discharge them. Such bond shall be filed

by the county auditor and shall be a public record, and shall be for the benefit of any person who may be injured by the failure or refusal of such receiver to discharge his duty.

Procedure in
case receiver
fails to qualify.

SEC. 8. In case such receiver shall fail to qualify in the manner and form herein provided, within ten days after the result of the election shall have been declared, it shall be the duty of the council to file in the superior court of the county in which such city or town may be situated, a petition setting forth the fact of the election and the result thereof, and the failure of the receiver elected thereat to qualify within the time last above mentioned, and praying for the appointment of another person as a receiver, of which said petition, and of the time of making application thereupon, such receiver shall have three days' notice, if he be found within the county, otherwise no notice shall be required, and thereupon the court shall be deemed to have jurisdiction of the matter for all purposes, and unless good cause to the contrary be shown, such court shall appoint some suitable and proper person as such receiver, who shall in turn and within ten days qualify as prescribed in section seven of this act. In case the council do not file the petition and make the application provided for in section eight of this act, within the time herein provided, it shall be the privilege of any taxpayer or citizen of such city or town to file such petition and to make such application.

Receiver's
duties.

SEC. 9. Upon qualifying, as hereinbefore provided, it shall be the duty of the receiver to take possession, and the duty of the several officers of the late corporation to surrender to such receiver all the property, moneys, vouchers, records and books thereof, or in any manner appertaining to its business, and he shall forthwith proceed to wind [up] the affairs of such city or town; and for such purpose he shall have authority to pay:

All outstanding warrants and bonds.

All lawful claims against the city or town which have been duly audited and allowed by the council.

All lawful claims which may be presented to him within the time limited by law for the presentation of such claims,

but no claim shall be allowed or paid which is not presented within six months from the date of the election provided for in section five of this act.

All claims that by final adjudication may come to be established as lawful claims against the corporation.

All outstanding warrants and claims shall be paid in the order of their priority, having reference to the fund on which they are properly a charge, and all bonds shall be paid in the order of their maturity, having reference to the fund on which they are issued.

SEC. 10. For the purpose of enabling the receiver to pay such claims, he is hereby authorized to sell at public auction, after such public notice as the sheriff is required to give on sale of like property, all the property of such late corporation, excepting such as may be necessary to enable him to wind up the affairs thereof, and excepting also all such as may have been dedicated to public use. Personal property shall be sold for cash in hand, and real property may be sold either for cash in hand, or for one-half cash and the balance in deferred payments, the last payment not being later than one year from the date of sale, in the discretion of the receiver, he, however, to hold the title until the purchase price shall have been fully paid. The receiver shall further have the power to levy taxes on all property in the same manner and to the same extent as the proper authorities of the city or town could have done if such corporation had not been dissolved, and to receive such taxes when collected, and to apply the proceeds arising from such sales and taxes to the extinguishment of the obligations of such late corporation in the manner provided in section nine of this act, but after all the legal claims against such late corporation have been paid excepting bonds not yet due, the tax levy shall be no greater than sufficient to meet the accruing interest, until the maturity of such bonds or securities, when the levy may be sufficient to meet the same: *Provided*, That no levy greater than two mills on the dollar shall be made therefor.

SEC. 11. The receiver shall be entitled to deduct from any funds coming into his hands a commission of six per centum on the first thousand dollars, five per centum on

He may sell property to pay debts.

Terms of sale.

May levy tax.

Receiver's commission.

the second thousand, and four per centum on all moneys over two thousand, as his full compensation, exclusive of necessary traveling expenses and necessary disbursements, but not exclusive of attorneys' fees.

May sue and be sued.

SEC. 12. The receiver shall have the right to sue and be sued in all cases whatsoever necessary or proper for the purpose of winding up the affairs of the late corporation, and shall be subject to be sued in all cases wherein the city or town might have been sued, excepting as in this act otherwise provided.

May be removed for cause.

SEC. 13. The receiver shall proceed to wind up the affairs of the late corporation with diligence, and may, for negligence or misconduct in the discharge of his duties, be subject to removal by the superior court upon a proper showing made by a taxpayer of such late corporation, or by an unsatisfied creditor thereof. In case of the removal, death or resignation of a receiver, the court shall have power to appoint a new receiver and to take charge of the affairs of the late corporation, as in case of other receiverships.

How discharged.

SEC. 14. Upon the final payment of all lawful demands against such late corporation, it shall be the duty of the receiver to file a final account, together with all vouchers, with the county clerk, and any funds remaining in his hands shall be paid to the county treasurer for the use of the school district in which such city or town may be situated; and thereupon such receivership shall be deemed ended.

When no receiver elected, any interested person may petition superior court.

SEC. 15. In case an election should be ordered as provided in section two of this act, and no receiver should be elected, upon the supposition that there was no indebtedness or outstanding liabilities, and it should subsequently transpire that there was such indebtedness or liability, any person interested may, unless such indebtedness be paid, file a petition in the superior court, and the court shall appoint a receiver who shall qualify, and proceed in like manner and have like powers and authority as any other receiver provided for in this act.

In which case court may appoint.

SEC. 16. In case a petition be filed for the purpose of calling an election, as provided in section two of this act,

it shall be the duty of the council to appoint a suitable person to make an enumeration of the inhabitants of such city, and such enumeration, unless impeached for fraud, shall be conclusive: *Provided*, That if an enumeration shall have been made for the city, county, state or the United States within six months next previous to the filing of such petition, and such enumeration shows the population of such city to be less than four thousand inhabitants, then no other enumeration shall be necessary.

SEC. 17. Upon the dissolution of any incorporation, the streets and highways of such city or town shall revert to the control of the state, and shall remain public highways until closed in pursuance of law; and the territory embraced within such city or town shall be made into a new road district or annexed to adjoining districts, as may be ordered by the board of county commissioners of the county embracing such city or town.

SEC. 18. Nothing herein contained shall be construed as impairing the obligation of any contract; and in case any franchise may have been lawfully granted, which franchise shall not have expired at the time of the dissolution of such municipal corporation, nothing herein contained shall be construed as an impairment of such franchise, and no right shall be implied herefrom to interfere therewith to any greater extent than such city or town might lawfully have done had it remained incorporated.

SEC. 19. An emergency exists, and this act shall take effect immediately.

Passed the House February 24, 1897.

Passed the Senate March 10, 1897.

Approved by the Governor March 13, 1897.