

CHAPTER 46.

[S. B. No. 201]

RELATING TO WATERWAYS.

AN ACT relating to commercial waterway districts, amending chapter XI of the Laws of 1911, of the State of Washington, relating to commercial waterway districts, validating certain proceedings heretofore had with reference to commercial waterway districts, and providing that this act shall take effect immediately.

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

SECTION 1. That section 5 of chapter XI of the Laws of 1911 of the State of Washington, relating to commercial waterway districts, be and the same is hereby amended to read as follows:

[Amends § 5, ch. 11, L. '11; Pierce's Code, 1912, 437 § 37.]

Section 5. Said election shall be held on the day designated in such notice and shall be conducted as herein-after provided for, and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county in which such district is located, and shall have resided within the boundaries of said proposed district for a period of not less than ninety days next preceding the date of such election, or, unless he shall be the owner of real estate situated within said proposed district. The board of county commissioners shall on the Monday next succeeding said election count and canvass the votes cast thereat, and if on said canvass and count it appears that the majority of votes cast are for the "Commercial Waterway District, Yes," the board shall immediately enter an order upon its records declaring the proposed territory duly organized as a commercial waterway district, giving to such district a proper number, followed by the name of the county and state, and shall, also, declare the three persons who received the highest number of votes duly elected commercial waterway commissioners of such commercial waterway district for the following respective terms of office: The one receiving the highest number of votes three years; the one receiving the next highest num-

Who may vote.

Canvass of votes.

Result, how declared.

Fixing terms.

ber of votes, two years; and the third member one year. Said commissioners so elected shall hold office for said respective terms and until their successors are elected and qualified. Said board shall cause a copy of the order entered of record duly signed to be filed in the office of the secretary of state, and from and after the date of such filing said organization shall be deemed complete, and the members of said board of commissioners so chosen at such election, before entering upon the discharge of their duties shall qualify as county commissioners are required to qualify, and to enter into a bond payable to the State of Washington for the benefit of said district with two or more sureties in the penal sum of not less than one thousand (\$1,000) dollars nor more than five thousand (\$5,000) dollars, conditioned for the faithful performance of their duties as commercial waterway commissioners, to be approved by the board of county commissioners and to be filed with the county clerk of the county in which said district is situated. The members of each successive board of commercial waterway commissioners, whether elected or appointed, shall before entering upon their duties take an oath and enter into a bond, as herein provided, and after being approved by the board of county commissioners shall be filed in the office of the county clerk of the county in which said district is situated.

SEC. 2. That section 6 of said chapter XI be and the same is hereby amended to read as follows:

Section 6. A general election for the election of one member of said board of commercial waterway commissioners for such district shall be held upon the first Tuesday after the first Monday in December of each year after the year in which said district shall have been established and organized, and the term of office of the persons elected thereat shall begin the second Monday of the following January: *Provided*, That in case of districts heretofore organized an entire board of commissioners shall be elected at the first election to be held hereunder, whose terms of office shall be one, two and three years respectively from

Order filed
with Secre-
tary of
State.

Bond of
commissioner.

[Amends § 6,
ch. 11, L. '11;
Pierce's
Code, 1912,
437 § 39.]

General
election.

Entire
board
elected, when.

said second Monday in January following, in accordance with the respective number of votes received by said three persons as provided in section 5 for original elections. Said elections shall be held in accordance with the school laws of the State of Washington. No official ballot shall be required at the first or any subsequent election, and the law known as the direct primary law of this state shall have no application to the election held under this act, and the expense thereof shall be defrayed by said district, and the judges, clerks, and inspectors of said election shall each receive as compensation for the services rendered at such election the sum of three (\$3.00) dollars per day: *Provided*, That at least thirty days' notice immediately preceding any such general election shall be given thereof by the board of commissioners of such commercial waterway district by posting the same in four public places within the said district. Said notice shall designate the voting places and contain the names of two electors of said district for each of said voting places as judges of said election, and the name of one elector of said district, for each of said voting places as inspector thereof, the same to be chosen by said board of commissioners. Said board of commissioners shall act as a canvassing board to canvass the votes of each election, and they shall meet the day following such election and canvass said votes and declare the result thereof and issue certificates of election.

School law governs.

Primary law not to apply.

Salaries of election officers.

Notice of election.

Canvass of votes.

SEC. 3. That section 10 of said chapter XI be and the same is hereby amended so as to read as follows:

[Amends § 10, ch. 11, L. '11; Pierce's Code, 1912, 437 § 47.]

Section 10. Said board of commercial waterway commissioners hereinbefore provided for shall have the exclusive charge of the construction and maintenance of all commercial waterways or commercial waterway systems which may be constructed within the said district, and shall be the executive officers thereof, with full power to bind said district by their acts in the performance of their duties as provided by law. In case of vacancy or vacancies occurring in said board by the death, failure to elect, failure to qualify, resignation, such vacancy or vacancies

Duty of commissioners.

Vacancies

shall be filled at once from the freeholders and qualified electors of said district by the judge of the superior court of said county, and said appointee shall serve until the next annual election and until his successor is elected and qualified: *Provided*, That in counties where there may be more than one superior judge, the judge eldest in age shall make such appointment.

Superior
judge to
appoint.

SEC. 4. That section 28 of said chapter XI be and the same is hereby amended to read as follows:

[Amends
§ 28, ch. 11,
L. '11;
Pierce's
Code, 1912,
431 § 83.]

Section 28. Upon the entry of the judgment, the clerk of said court shall immediately prepare a transcript which shall contain a list of the names of all persons and corporations benefited by said improvement and the amount of benefit derived by each, respectively, and shall duly certify the same, together with a list of the lands benefited by such improvement belonging to each person and corporation, and shall file the same with the auditor of the county for convenience of reference; and from and after the entry of such judgment in the office of the clerk of the court in which the same is rendered, all the lands included in the list of lands benefited by such improvement shall stand charged with the entire cost and expense of said improvement and the other costs, expenses and charges provided for by this act, not exceeding with respect to any lot or tract of land (so far as concerns the original cost) the maximum amount stated or declared in such judgment to be the maximum amount of benefits to be derived by such lot or tract of land or the owners thereof, and all such lands shall thereafter be subject to the assessments to be levied by the board of commissioners for said purposes, which assessments shall be levied pro rata in proportion to the maximum amount of benefits as to each lot or tract of land as stated or declared in such judgment. All assessments shall be levied from time to time by the board of commissioners by written notice to be addressed to and served on the county assessor of the county, which notice shall be so served on the county assessor on or before the first day of November in each

Transcript
of judgment
to be filed.

Property
benefited
charged
with costs
of improve-
ment.

Assessments,
how levied.

year, or as soon thereafter as practicable, and such assessments shall be levied against and apportioned to the lands in such district benefited by said improvement in proportion to the maximum benefits originally determined by the judgment of the court and such assessments shall fall due during the then ensuing calendar year at the time of the falling due of general taxes, and the amount so designated shall be added by the county assessor to the general taxes of each person or corporation, and to the general taxes against each lot or tract of land or other property, according to such notice, and the several amounts thereof shall be placed upon the general tax rolls in the office of the county assessor and shall be deemed for all purposes a part of the general taxes, and shall constitute liens against each such lot or tract of land of equal rank with state, county and city taxes and shall have the same priority over all other liens as state, county and city taxes have, and shall be subject to the same interest and penalties in case of delinquency as in case of general taxes, and for all purposes of delinquency, certificates of delinquency, foreclosure and other proceedings leading up to final payment, enforcement and collection, such assessments shall be deemed a part of the general taxes as aforesaid. The amount of the assessment levied by the commissioners during any one year shall not exceed twenty-five per cent. of the amount estimated by the board of commissioners to be necessary to pay the costs of the proceedings and the establishment of said district and waterway system, and the cost of construction of said work: *Provided*, That this limitation shall not apply to assessments levied to pay the principal or interest of any bonds issued under authority of this act, or levied for maintenance charges as provided by section 33: *And provided further*, That where the amount realized from the original assessment shall not prove sufficient to complete the original plans and specifications of any waterway system, alterations, extensions or changes therein for which the said original assessment was made, the board of commissioners of said district shall

Assessments
as part of
general taxes.

Limit on
assessments.

Additional
assessments
authorized.

make such further assessment as may be necessary to complete said system according to the original plans and specifications, which assessment shall be made and collected in the manner provided herein for the original assessment. This amendment shall not be construed to impair or prejudice any proceedings had or taken by any commercial waterway district prior to this amendment under the act hereby amended or any other act relating to commercial waterway districts, but all such proceedings may be continued and carried out under the provisions of this act as hereby amended the same as if originally commenced under the provisions of this act as hereby amended. All proceedings, acts and things which may heretofore have been had or done or attempted to be had or done under the provisions of the act hereby amended or any other act of the legislature relating to commercial waterways shall be considered and deemed a full compliance with the provisions of this amendatory act with reference thereto. And in all cases where any county assessor has prior to this amendment entered upon any county tax rolls by direction of the board of commissioners of any such district an assessment ordered by them and made pro rata in proportion to the several amounts fixed in any such court judgment as the respective maximum amounts of benefits to be derived by each lot or tract of land, notwithstanding that the provisions of this section or of the other sections of the act of which this act is amendatory have not been strictly pursued, nevertheless the said entries upon said tax rolls be and the same are hereby validated and confirmed and given the same affect in all respects as if the said amounts had been entered upon such tax rolls strictly in accordance with the provisions of the law then existing, and all such assessments shall be treated as if levied under the provisions of said act as hereby amended.

This act does
not affect
proceeding
already
started.

Validation.

[Amends
§ 30, ch. 11,
L. '11;
Pierce's
Code, 1912,
437 § 87.]

SEC. 5. That section 30 of said chapter XI be and the same is hereby amended to read as follows :

Section 30. After the filing of said transcript said commissioners of such waterway district shall proceed at

once in the construction of said improvement, and in carrying on said construction or any extensions thereof, they shall have full charge and management thereof, shall have the power to employ such assistance as they may deem necessary and purchase all material and employ all labor that may be necessary in the construction and carrying on of the work of said improvement; and shall have power to let the whole or any portion of said work to any responsible contractor which said contract shall be let to the lowest responsible bidder after advertising for bids for such work in two successive issues of some weekly newspaper printed and published in such county, and shall in such case enter into all necessary agreements with such contractor that may be necessary in the premises: *Provided*, That the commissioners of said commercial waterway district may sell or otherwise dispose of all excavating material of every kind in such manner and upon such terms and conditions as in their discretion they may deem advisable and for the best interest of such commercial waterway district without any notice or other formalities or proceedings whatever. The proceeds of any sales of such excavated material are to be used for the benefit of such commercial waterway district and the payment of any expense connected with the cost of construction or maintenance thereof: *Provided further*, That in case the whole or any portion of said improvement is let to any contractor said commissioners shall require said contractor to give a bond in double the amount of the contract price of the whole or of such portion of said work covered by said contract, with two or more sureties to be approved by the board of commissioners of said waterway district and running to said district as obligee therein, conditioned for the faithful and accurate performance of said contract by said contractor, his executors, administrators or assigns, according to the terms and conditions of said agreement, and shall cause said contractor to enter into a further or additional bond in the same amount, with two or more good and sufficient sureties to be approved by said board of

Commissioners' powers.

Bids for work.

May sell dirt.

Bond of contractor.

Additional bond.

commissioners of said waterway districts in the name of said district as obligee therein, conditioned that said contractor, his executors, administrators or assigns, or subcontractor, his executors, administrators or assigns, performing the whole or any portion of said work under contract of said original contractor, shall pay or cause to be paid all just claims for all persons performing labor or rendering services in the construction of said work, or furnishing materials, merchandise or provisions of any kind or character used by said contractor or subcontractor, or any employee thereof in the construction of said improvement: *Provided further*, That no sureties on said last mentioned bond shall be liable thereon unless the persons or corporation performing said labor and furnishing said materials, goods, wares, merchandise and provisions, shall, within ninety days after the completion of said improvement file their claim, duly verified, that the amount is just and due and remains unpaid, with the board of commissioners of said waterway district.

Claims
against
contractor.

SEC. 6. That section 34 of said chapter XI be and the same is hereby amended to read as follows:

[Amends
§ 34, ch. 11,
L. '11;
Pierce's
Code, 1912,
437 § 95.]

Officers of
commission.

Section 34. The board of commissioners of such district shall elect one of their number chairman and one secretary, and shall keep minutes of all their proceedings, and may issue warrants of such district in payment of all claims of indebtedness against such district; such warrants shall be in form and substance the same as county warrants, or as near the same as may be practicable, and shall draw interest at a rate to be fixed by said board, from the date of their presentation to the treasurer for payment, as hereinafter provided, and shall be signed by the chairman and attested by the secretary of said board: *Provided*, That no warrants shall be issued by said board of commissioners in payment of any indebtedness of such district for less than the face or par value.

Warrants.

Interest.

SEC. 7. That section 35 of said chapter XI be and the same is hereby amended to read as follows:

[Amends § 35,
ch. 11, L.
'11; Pierce's
Code, 1912,
437 § 97.]

Section 35. At any time after the entry of a judgment

in a proceedings brought under the foregoing provisions of this act, the board of commissioners of such waterway district may issue bonds as hereinafter provided for all or any part of the total amount of the cost of construction of said improvement, together with the cost of the establishment of the district and any and all other expenses of every kind connected with the completion of such waterway system, including the damages assessed and compensation made to land owners for right of way and the expenses and costs of the entire proceedings, and the purpose of issuing such bonds may embrace, in whole or in part, the funding of any outstanding warrants or obligations of such district. In case such bonds are issued there is hereby appropriated and pledged for the payment thereof a sufficient amount of all the maximum benefits stated or declared, or to be stated or declared, by the judgment of the court against all the lands benefited and to be benefited by the improvement within such district and there is hereby appropriated and pledged for such payment a sufficient amount of all sums charged against such lands and the assessments therefor as will be sufficient to pay all such bonds as the same or any part thereof become due; and while any such bonds shall be outstanding the board of commissioners shall at no time levy any assessments for any purpose, other than their payment, which shall so far impair the fund to be realized from the collection of all the assessments as to jeopardize the payment of such bonds or to reduce such fund below the point where there will be ample amounts still levyable to provide for the payment thereof. The bonds hereby authorized shall not be sold for less than their par value. All bonds and warrants issued under the authority of this act shall be legal securities which may be used by any bank or trust company for deposit with the state treasurer, or any county or city treasurer as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. When the county treasurer shall have on hand money of such district available for the payment of the warrants of

Bonds.

Property
pledged to
pay bonds.

Sold for par.

Municipal
securities.

such district, he shall call such warrants in the same manner and under the same conditions as county warrants:

SEC. 8. That section 36 of said chapter XI be and the same is hereby amended to read as follows:

[Amends § 36
ch. 11, L. '11;
Pierce's
Code, 1912,
437 § 99.]

Section 36. Said bonds shall be numbered from one upwards, consecutively, and be in denominations of not less than one hundred (\$100) dollars, nor more than one thousand (\$1,000) dollars. They shall bear the date of issue, shall be made payable to the bearer in not more than ten (10) years nor less than five (5) years from the date of their issue, and bear interest at a rate not exceeding seven per cent per annum, payable semi-annually, with coupons attached for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of waterway commissioners, and shall be attested by the secretary of the board, and the seal of such district shall be affixed to each bond, but not to the coupons: *Provided, however,* That said coupons in lieu of being so signed may have printed thereon a facsimile of the signatures of such officers.

Denomination
of bonds.

Time.

Coupons.

SEC. 9. That section 38 of said chapter XI be and the same is hereby amended to read as follows:

[Amends § 38,
ch. 11, L. '11;
Pierce's
Code, 1912,
437 § 103.]

Section 38. Beginning five years before said bonds shall become due, the commissioners of such commercial waterway district issuing them are hereby authorized and required to levy four annual assessments each equal to twenty-five per cent. of the total amount necessary to liquidate said bonds at maturity; such assessments shall be collected by the county treasurer and kept as a separate fund for the sole purpose of liquidating said bonds in accordance with the provisions of the following section.

Sinking
fund.

SEC. 10. That section 39 of said chapter XI be and the same is hereby amended to read as follows:

[Amends § 39,
ch. 11, L. '11;
Pierce's
Code, 1912,
437 § 105.]

Section 39. It shall be the duty of the treasurer in any county in which there may be a district issuing bonds under the provisions of this chapter to call in for payment on each interest day on and after five years from the

date of any such bonds in numerical order beginning with bond number one, as many of such bonds as can be paid out of the funds on hand for that purpose. Said call shall be published for two consecutive weeks in the newspaper doing the county printing, the first publication to be two weeks prior to the said interest day, and shall state the numbers of bonds so called and that interest thereon will cease on said interest day.

Call of
bonds for
payment.

SEC. 11. That section 40 of said chapter XI be and the same is hereby amended to read as follows:

[Amends § 40,
ch. 11, L. '11;
Pierce's
Code, 1912,
437 § 107.]

Section 40. It shall be the duty of such waterway commissioners annually to levy an assessment sufficient for the payment of the coupons hereinbefore mentioned as they fall due. The proceeds of said levy shall be set apart by the county treasurer as a special fund to be known as the "Interest Fund." Said coupons shall be considered for all purposes as warrants drawn upon the funds of the district issuing bonds under the provisions of this chapter, and, when presented to the county treasurer, and no funds are in the treasury to pay said coupons, it shall be his duty to endorse said coupons as presented for payment in the same manner as other warrants upon the funds of said district are indorsed, and thereafter said coupons shall bear interest at the same rate as the bond to which they belong and be subject to call in the same manner as other warrants.

"Interest
fund."

SEC. 12. This act is hereby declared to be necessary for the immediate preservation of the public health and safety and shall take effect immediately.

Emergency.

Passed the Senate February 6, 1913.

Passed the House February 24, 1913.

Approved by the Governor March 8, 1913.