

CHAPTER 133.

[S. B. 307.]

REVISION OF ASSESSMENTS AND INCURRENCE OF EMERGENCY OBLIGATIONS BY DRAINAGE DISTRICTS.

AN ACT relating to drainage districts, providing for assessments according to benefits, authorizing and incurring additional obligations in case of emergency and amending sections 4149 and 4163 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That section 4149 of Remington & Ballinger's Annotated Codes and Statutes be amended to read as follows:

Section 4149. If at any time it shall appear to the board of drainage commissioners that any lands within or without said district as originally established are being benefited by the drainage system of said district and that said lands are not being assessed for the benefits received, or if after the construction of any drainage system, it appears that lands embraced therein have in fact received or are receiving benefits different from those found in the original proceedings, and which could not reasonably have been foreseen before the final completion of the improvement, or that any lands within said district are being assessed out of or not in proportion to the benefits which said lands are receiving from the maintenance of the drainage system of said district, and said board of drainage commissioners shall determine that certain lands, either within or without the boundaries of the district as originally established, should be assessed for the purpose of raising funds for the future maintenance of drainage system of the district, or that the assessments on land already assessed should be equalized by diminishing or increasing the same so that said lands shall be assessed in proportion to the benefits received, said commissioners shall file a petition in the superior court in the original cause, setting forth the facts, describing the lands not

Opening assessment proceedings to subject new lands and equalize original assessments.

Petition to superior court.

previously assessed and the lands the assessment on which should be equalized, stating the estimated amount of benefits per acre being received by each tract of land respectively, giving the name of the owner or reputed owner of each such tract of land and praying that such original cause be opened for further proceedings for the purpose of subjecting new lands to assessments or equalizing the assessments upon lands already assessed, or both. Upon the filing of such petition, summons shall issue thereon and be served on the owners of all lands affected, in the same manner as summons is issued and served in original proceedings, as near as may be, and if such new lands lie within the boundaries of any other drainage district, said summons shall also be served upon the commissioners of such other drainage district. In case any of the new lands sought to be assessed in said proceeding lie within the boundaries of any other drainage district, and the drainage commissioners of such other district believe that the maintenance of the drain or drains of such other district is benefiting lands within the district instituting the proceeding, said drainage commissioners of such other districts shall intervene in such proceedings by petition, setting forth the facts, describing the lands in the district instituting the proceeding which they believe are being benefited by the maintenance of the drainage system of their district, and praying that the benefits to such lands may be determined and such lands subjected to assessment for the further maintenance of the drainage system of their district, to the end that all questions of benefits to lands in the respective districts may be settled and determined in one proceeding, and such petitioners in intervention shall cause summons to be issued upon such petition in intervention and served upon the commissioners of the drainage district instituting the proceeding and upon the owners of all lands sought to be affected by such petition in intervention. In case the owner of any such new lands sought to be assessed in said proceedings shall be maintaining a private drain against salt or fresh water for the

Summons.

Other drainage districts may intervene.

Cross-petition by landowner.

benefit of said lands, and shall believe that the maintenance of such private drain is benefiting any lands within or without the district instituting the proceedings, or in case any such new lands sought to be assessed are included within the boundaries of some other drainage district and are being assessed for the maintenance of the drains of such other district, and the owner of such lands believes that the maintenance of the drain or drains of such other district is benefiting lands included within the district instituting said proceedings, such owner or owners may by answer and cross-petition set forth the facts and pray that at the hearing upon said petition and cross-petition the benefits accruing from the maintenance of the respective drains may be considered, to the end that a fair and equitable adjustment of the benefits being received by any lands from the maintenance of the various drains benefiting the same, may be determined for the purpose of fixing the assessments for the future maintenance of such drains, and may interplead in said proceeding such other drainage district in which his lands sought to be assessed in said proceeding are being assessed for the maintenance of the drain or drains of such other district. No answer to any petition or petition in intervention shall be required, unless the party served with summons desires to offset benefits or to ask other affirmative relief, and no default judgment shall be taken for failure to answer any petition or petition in intervention, but the petitioners or petitioners in intervention shall be required to establish the facts alleged by competent evidence. Upon the issues being made up, or upon the lapse of time within which the parties served are required to appear by any summons, the court shall impanel a jury to hear and determine the matters in issue, and the jury shall determine and assess the benefits, if any, which the respective tracts of land are receiving or will receive from the maintenance of the drain or drains to be maintained, taking into consideration any and all matters relating to the benefits, if any, received or to be received from any drain, structure or im-

Trial
by jury.

provement, and to credit or charge, as the case may be, to each tract so situated as to affect any other tract or tracts, or having improvement or structures thereon or easements granted in connection therewith, affecting any other tract or tracts included in such proceedings, and shall specify in their verdict the respective amount of benefits per acre, if any, assessed to each particular tract of land, by legal subdivisions. Upon the return of the verdict of the jury, the court shall enter its judgment in accordance therewith, as supplemental to the original decree, or in case a petition in intervention be filed by the drainage commissioners of some other district than that instituting the proceeding, such judgment to be supplemental to all such original decrees, and thereafter, all assessments and levies for the cost of construction or future maintenance of any drain or drains described in said judgment shall be based upon the respective benefits determined and assessed against the respective tracts of land as specified in said judgment. Every person or corporation feeling himself or itself aggrieved by any such judgment may appeal to the supreme court within thirty (30) days after the entry thereof, and such appeal shall bring before the supreme court the propriety and justness of the verdicts of the jury in respect to the parties to the appeal. No bonds shall be required on such appeals. Nothing in this section contained shall be construed as affecting the right of drainage districts to consolidation in any manner provided by law.

Verdict and judgment.

Appeal to supreme court.

SEC. 2. That section 4163 of Remington & Ballinger's Annotated Codes and Statutes of Washington is hereby amended to read as follows:

Section 4163. The board of commissioners of any drainage district organized under the provisions of this act shall, on or before the first Monday in October, of each year, make an estimate of the cost of maintenance of the drainage system in such district, which estimate shall include the cost of making any necessary repairs that it might become necessary to make in the maintenance of

Annual estimate of maintenance cost.

Levy and collection as tax.

Warrants for emergency expenses.

such system. Such estimate shall be for the succeeding year, and the amount so estimated shall be certified by the board of commissioners to the auditor of the county in which such district is located, on or before said date, and the amount thereof shall be levied against and apportioned to the lands in such district benefited by said improvement, in proportion to the maximum benefits originally assessed, and such amount shall be added to the general taxes against said lands and collected therewith: *Provided, however,* That in case of emergency not in contemplation at the time of making such annual estimate the drainage commissioners may incur additional obligations and issue valid warrants therefor in excess of such estimate, and all such warrants so issued shall be valid and legal obligations of such district.

Passed the Senate February 27, 1917.

Passed the House March 6, 1917.

Approved by the Governor March 15, 1917.

CHAPTER 134.

[H. B. 77.]

INTEREST PAYMENTS ON WARRANTS FOR CONSTRUCTION OF LAKE WASHINGTON CANAL.

AN ACT providing for the payment of interest on warrants drawn on the state shore land improvement fund in payment of the construction of the Lake Washington canal in King county, Washington, and making an appropriation therefor.

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

Payment out of general fund.

SECTION 1. That the interest already accrued and to accrue on the warrants issued on the shore land fund created to pay for the construction of the Lake Washington canal in King county, Washington, under authority of the act creating a state shore land improvement fund, and providing for the issuance of warrants thereon, approved March 17th, 1909, being chapter 218, Session Laws of the State of Washington for 1909, and under the