

CHAPTER 143.

[S. B. 261.]

RELATING TO DRAINAGE.

AN ACT to amend sections 5 and 12 of an act entitled, "An act to provide for the establishment and creation of drainage districts, and the construction and maintenance of a system of drainage, and to provide for the means of payment thereof, and declaring an emergency," approved March 20, 1895, and declaring an emergency.

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

SECTION 1. That section 5 of an act of the Legislature approved March 20, 1895, entitled, "An act to provide for the establishment and creation of drainage districts, and to provide for the means of payment thereof, and declaring an emergency," be and the same is hereby amended to read as follows: Sec. 5. Such election shall be held on the day designated in such notice, and shall be conducted in accordance with the general elections laws of the State of Washington, 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 limits of such district, as established by the board of county commissioners, for at least thirty days next preceding such election. The board of county commissioners shall meet on the Monday next succeeding such election and proceed to canvass the votes cast thereat, and if, upon such canvass, it appears that a majority of the votes cast are for drainage district, "Yes," the board shall have an order entered upon their minutes and declaring such territory duly organized as a drainage district under the name and style of Drainage District No. (here insert number) of (here insert name of county) of the State of Washington, and shall declare the three persons receiving respectively the highest number of votes to be duly elected as a board of commissioners for such drainage district. Said board shall cause a copy of said order, duly certified, to be filed in the office of the Secretary of State, and from and after the date of filing such organization

[Am'd. § 5, ch. 115, p. 275, L. '95; § 3719 Bal. §1, ch. 175, p. 360, L. '05; § 4534 Pierce.]

Voter.

Canvass of votes.

Bond of Com-
missioners.

shall be deemed complete, and such board of commissioners so chosen at such election shall be entitled to enter immediately upon the duties of their office, and upon qualifying as county officers are required to qualify, and giving a bond to the State of Washington for the benefit of said drainage district, for the faithful performance of their duties as such board of drainage commissioners in the penal sum of twenty-five hundred dollars, with two or more sureties, to be approved by the board of county commissioners, and shall hold such office until the next general election for the election of officers in such drainage district, and until their successors are elected and qualified. Each board of commissioners thereafter, which may be constituted either by appointment or election, shall enter into a like bond and of like effect before entering upon their duties, which bond shall be approved by the judge of the superior court of the county in which said district is located, and shall be filed in said court.

[Am'd. § 12,
ch. 115, p.
281. L. '95;
§ 3726 Bal.;
§ 4541
Pierce.]

SEC. 2. That section 12 of said act be, and the same is hereby amended to read as follows: Sec. 12. Any or all of said defendants may appear jointly or separately and admit or deny the allegations of said petition and plead any affirmative matter in defense thereof at the time and place appointed for hearing said petition, or to which the same may have been adjourned. If the court or judge thereof shall have satisfactory proof that all of the defendants in said action have been duly served with said summons, as above provided, and shall be further satisfied by competent proof that said improvement is practicable and conducive to the public health, welfare and convenience, and will increase the value of said lands for the purpose of public revenue, and that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really a public use, and that the land, real estate, premises or other property sought to be appropriated are required and necessary for the establishment of said improvement, and that said improvement has a good and sufficient outlet, the court or judge thereof shall cause a jury of twelve qualified persons to be im-

paneled to assess the damages and benefits, as herein provided, if in attendance upon his court; and if not he may, if satisfied that the public interests require the immediate construction of said improvement, direct the sheriff of his county to summons from the citizens of the county in which petition is filed as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the parties to the proceedings consent to a less number, such number to be not less than three, and such consent shall be entered by the clerk in the minutes of the trial. If necessary, to complete the jury in any case, the sheriff, under the directions of the court or the judge thereof shall summon as many qualified persons as [may] be required to complete the jury from the citizens of the county in which the petition is filed. In case a special jury is summoned the cost thereof shall be taxed as part of the cost in the proceedings and paid by the district seeking to appropriate said land, the same as other costs in the case; and no person shall be competent as a juror who is a resident of, or land owner in, the district seeking to appropriate said land. The jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation or company, or to the state, by reason of the appropriation and use of such land, real estate, premises or other property for said improvements and shall ascertain, determine and award the amount of damages to be paid to said owner or owners, respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property for the establishment of said improvement; and shall further find a maximum amount of benefits per acre to be derived by each of the land owners, and also the maximum amount of benefits resulting to any municipality, public highway, corporate road, or district from construction of said improvement. And upon a return of the verdict into court the same shall be reported as in other cases; whereupon, a decree shall be entered in accordance with the verdict so rendered setting forth all the facts found by the jury, and decreeing that

Jury to
assess
damages.

Competency
of juror.

Benefits, to
whom
assessed.

said right-of-way be appropriated, and directing the commissioners of said drainage district to draw their warrant on the county treasurer for the amount awarded by the jury to each person for damages sustained by reason of the establishment of said improvement, payable out of the funds of said drainage district.

SEC. 3. An emergency exists and this act shall take effect immediately.

Passed by the Senate February 26, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 144.

[S. B. 75.]

RELATING TO SURVIVAL OF ACTIONS.

AN ACT amending section 4838 of Ballinger's Annotated Codes and Statutes of Washington, in relation to survival of actions for personal injury to any person, occasioning his death.

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

[Am'd.
§ 4838 Bal.;
§ 267 Pierce.]

Right of
action sur-
vives to
relatives.

SECTION 1. That section 4838 of Ballinger's Annotated Codes and Statutes of Washington be, and the same is, hereby amended to read as follows: Sec. 4838. No action for a personal injury to any person occasioning his death shall abate, nor shall such right of action determine, by reason of such death, if he have a wife or child living, or leaving no wife or issue, if he have dependent upon him for support and resident within the United States at the time of his death, parents, sisters or minor brothers; but such action may be prosecuted, or commenced and prosecuted, in favor of such wife or in favor of the wife and children, or if no wife, in favor of such child or children, or if no wife or child or children, then in favor of his parents, sisters or minor brothers who may be dependent upon him for support, and resident in the United States at the time of his death.

Passed by the Senate February 3, 1909.

Passed by the House March 11, 1909.

Approved March 16, 1909.