

No. 121, S.]

[Published July 6, 1911.

CHAPTER 541.

AN ACT to amend subsections 1 and 6 of section 1379—15, subsection 1 of section 1379—23, and sections 1379—24, 1379—25, and 1379—30, and to create sections 1379—20m, 1379—24c, 1379—31om, and 1379—32b of the statutes, relating to drainage districts.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subsections 1 and 6 of section 1379—15, subsection 1 of section 1379—23, and sections 1379—24, 1379—25, and 1379—30 of the statutes are amended to read: (Section 1379—15.) 1. Before entering upon their duties such commissioners shall take and subscribe an oath to support the constitution of the United States and the constitution of the states of Wisconsin, to faithfully and impartially discharge their duties as such commissioners and to render a true account of their doings to the court by which they are appointed whenever required by law or the order of the court, and shall execute a bond running to the clerk of said court and his successors in office as obligees, to be filed with said clerk for the benefit of the parties interested in an amount to be fixed by the court or presiding judge, and with sureties to be approved by the court or presiding judge, conditioned for the faithful discharge of their duties as such commissioners and the faithful accounting for and application of all moneys which shall come into their hands as such commissioners. *Said commissioners shall forthwith organize by electing one of their number chairman, one of their number secretary, and the other one of their number treasurer, and at least one commissioner shall be a resident of the district, unless the owners of a majority of lands, and a majority of the owners of land in the district shall petition otherwise.* A majority shall constitute a quorum, and a concurrence of a majority in any matter within their duties shall be sufficient to its determination.

6. On the first Tuesday of July of each year they shall file in the office of the clerk of the court having jurisdiction of the matter an itemized statement of all their receipts and disbursements, and an additional statement of the length of the ditch or ditches dug, with their width, depth, prices per cubic yard, and all such other items as shall be necessary to give an intelligible understanding of the expenditures of all moneys disbursed, and leave said report in said office for examination by parties interested at all times.

(Section 1379—23) 1. Assessments for keeping any drain, ditch, levee, or other work in repair under these provisions shall be due and payable on the first Tuesday of September annually. Commissioners having charge of any completed drain, ditch, levee, or other work shall, between the 15th day of May and the first day of June in each year, file with the clerk of the court having jurisdiction of such drainage district a report in which they shall specify in detail the labor necessary to the preservation and protection of the work under their control, the places where repairs are specially needed, the estimated cost of such repairs, and the sum to be assessed against each tract, lot, easement, or corporation to pay all necessary repairs. * * * *Notice of the filing of such report shall be given, as provided in section 1379—30b.* All such assessments shall be apportioned on the sums of all the assessments of benefits confirmed by the court and then in force. Such annual report shall be heard by the court on the last Tuesday of June of each year, and the presiding judge shall examine said report, hear all objections to the same, fix and determine the amount of such assessments, and cause such adjudication to be entered of record in said court, and a certified copy to be delivered to said commissioners.

The amount to be collected under the order of said court for the preservation and maintenance of said work as aforesaid shall not, in the aggregate, amount in any one year to a sum greater than would be produced by a levy of ten per cent of the amount of the original assessments for benefits for the construction of the work on the lands benefited.

Section 1379—24. 1. In all cases after assessments for construction are confirmed by the court, the commissioners shall within twenty days after such confirmation give notice of the entry of the order of confirmation and of the time when and the place where the assessments may be paid, by publication thereof for at least two successive weeks in one or more newspapers published in the county where the proceedings are pending.

2. If assessments against lands are not paid when due they shall certify the same to the clerk of the town, city, or village in which the delinquent lands are situated, as due and unpaid for such work, *specifying after each parcel what amount thereof is due for principal and what amount thereof is due for interest*, and such clerk shall enter the same in the tax roll of such town, city, or village next thereafter to be made against the land benefited, but in a separate column thereof, and the same shall be collected in the same manner in which state, county, and town taxes are collected, except only that the personal property of natural persons and all lands other than those against which

the assessment shall have been made shall not be liable to seizure and sale therefor.

Section 1379—25. 1. Such assessments as are not paid to the commissioners or to the town, city, or village treasurer shall be returned by the town, city, or village treasurer to the county treasurer in the same manner and at the same time as delinquent taxes, but separately therefrom. The county treasurer shall advertise the same in his lists of lands to be sold for unpaid taxes; and unless paid to him prior to the tax sale, he shall sell said lands for the taxes and drainage assessments against the same, treating said drainage assessments the same as unpaid taxes but keeping them separate from the taxes on his records. When he issues certificates of sales of land for taxes and drainage assessments, he shall issue a separate certificate for the amount of drainage assessments on the said land. No extra advertising or sale fee shall be added to the certificate of sale for drainage assessment when the land was at the same time sold for drainage assessments as well as for taxes. In case the tax on any land shall be paid and the drainage assessment not paid, said county treasurer shall proceed to sell said land for drainage assessment or assessments in the same manner in which he would proceed if the taxes thereon were unpaid. The tax certificate and the drainage assessment certificate on the same land may be assigned separately or together, but at the public sale they shall be offered and sold together.

2. After the expiration of three years from the issuing of said certificate, a deed shall issue upon any certificate of sale for unpaid drainage assessment, in the same manner and upon the same notice or affidavit or non-occupancy now required for the issuance of tax deeds, which deeds shall be in the form substantially the same as tax deeds; provided that no such drainage assessment deed shall cut off or adversely affect any drainage assessment or installment of any assessment falling due after the assessment or installment on which such deed issued, or shall cut off adversely affect any additional assessments or assessments for repairs that may thereafter be made or fall due. No tax deed shall cut off any drainage assessment, nor shall any drainage assessment deed cut off any tax, except as otherwise provided by this section.

3. *Whenever any lands, located within any drainage district, shall have been offered for sale and such lands have not been sold, the county treasurer of the county in which such lands are situated shall bid in such lands for the county in trust, but the county shall not in any way be liable for such unpaid or future drainage assessments; and no credit shall be extended by the*

county to the treasurer of the town, city, or village, within which such lands lie, for such unpaid assessments on the lands so bid in, but the county clerk shall give to such town, city, or village treasurer a statement showing the amount of such unpaid assessment on such lands bid in by the county. Said certificates shall be held or assigned by the county only, in trust for such drainage district.

4. In case that any of the lands so bid in by the county shall have not been redeemed or certificates assigned within the period prescribed by the statutes in relating to general taxation, the circuit court may, upon the application of the county, the commissioners, or of any creditor or bondholder of the drainage district within which said lands are located, direct the treasurer of such county to offer said lands for sale at public auction, in such manner as the court shall direct, and upon the notice provided in section 1379—30b. Report shall be made and deed issued in manner provided by sections 3168 and 3169 of the statutes, and from the moneys received from the sale of said lands the county treasurer shall first deduct any unpaid general taxes due the county and the costs of such proceedings and shall pay the balance of such moneys in the manner and to such creditors or bond holders as the court shall direct. When lands shall have been finally sold under order of the court as provided herein, they shall be released from all lien of assessments levied prior to the time of such sale.

5. The rules of law applying to the collection of taxes and sale of land for taxes shall, unless in conflict with this act, apply to the collection of and sale of lands for drainage assessments, except that said drainage assessment certificates shall draw ten per cent interest annually.

6. When commissioners shall fail to certify to the town, city, or village clerk of the proper town, city, or village any one or more drainage assessments for construction, or repair, or additional assessment, against any lands in said district at the proper time, they may certify the same to the town, city, or village clerk at any time thereafter, whether in the same or any subsequent year.

Section 1379—30. 1. If in the first assessment for construction the commissioners shall have reported to the court a smaller sum than is needed to complete the work of construction, or if in any year an additional sum is necessary to pay the interest on lawful indebtedness of said drainage district, further or additional assessments on the lands and corporations benefited, proportioned on the last assessment of benefits which has been approved by the court, shall be made by the commissioners of

said drainage district under the order of the court or presiding judge thereof * * *, *notice of hearing of the application for such additional assessments having been given as provided by subsection 3 of section 1379—30b*, which further or additional assessment may be made payable in installments as specified in section 1379—22 of the statutes, * * * and shall be treated and collected in the same manner as the original assessments for construction confirmed by the court, in said drainage district.

2. *But no further or additional assessments, except for assessments for benefits rendered by another drainage district, for the payment of a money judgment or for expenses of annual maintenance, shall be made, in excess of twenty-five per cent of the last confirmed assessment of benefits, except upon petition of such a number of owners of lands within the district as is required by section 1379—11 in the original petition for organization.*

3. The Commissioners of said drainage district shall have the same power to borrow money or issue notes or bonds based upon such further or additional assessments herein provided for that is given them by section 1379—31b of * * * the statutes.

4. *All hearings before the court or presiding judge thereof, under the provisions of this chapter, except formal matters not affecting substantial rights, shall be held only at the county in which the files and records of said drainage district are filed and kept.*

SECTION 2. There are added to the statutes four new sections to read: Section 1379—20m. 1. Whenever, after the filing of the second report, all remonstrances or objections remaining undetermined shall relate to the inclusion or exclusion of certain lands, the construction or omission of any lateral, the determination of the amount of the assessment of benefits against or the award of damages to any lands or corporations, or to any other question, the determination of which does not go to the validity of the proceedings as a whole or to the feasibility or practicability of the general plan of drainage, the court may, in its discretion, and upon the application of the commissioners, enter an order confirming the assessment of benefits against and the award of damages in favor of all lands and corporations as to which no remonstrance has been filed, or if a remonstrance has been filed such remonstrance has been withdrawn or has been heard and determined and no appeal taken therefrom, and directing and empowering the commissioners to proceed with the work of construction and do any and all things necessary in connection therewith in the same manner as the drainage statutes

provide they should do when the second report has been finally confirmed.

2. So soon as any objection or remonstrance which was undetermined at the time of the entry of the order provided for by this section, shall have been finally determined, the court shall confirm such determination as to those lands or corporations with reference to which such objection or remonstrance was made or filed.

3. But the order provided for in this section shall not be entered until the court shall be satisfied that the plan of drainage provided for in the second report of the commissioners, including any amendment thereto, is valid, practicable, and feasible and will require no material change, and that the "cost of construction" of the work necessary under such order will not exceed the assessment of benefits against those lands and corporations whose assessments of benefits and awards of damages are sought to be confirmed by such order.

4. The intent of this section is to give to the court such power that it may, in its discretion, hasten the construction and completion of the work proposed and prevent delay.

5. This section shall be retroactive and shall apply to all drainage districts in which such orders have been heretofore made by the court.

Section 1379—241. In case any town, city, or village clerk fails to place any valid assessment certified to him on the tax roll against the land, easement, or corporation assessed, such assessment shall be placed upon the tax roll of said town, city, or village for the next year or any subsequent year after the error is discovered, against the lands, easements, and corporations assessed. In case said town, village, or city clerk assesses a wrong sum against any land, easement, or corporation the same shall be corrected on the tax roll the next year or any subsequent year after the error is discovered.

(Am. 1911, ch. 604, s. 115.)

Section 1379—310m. 1. Whenever one drainage district shall have assessed another drainage district for special benefits and such assessment shall have been confirmed by the court, or whenever a money judgment shall have been rendered against any drainage district, the clerk of the court shall certify the amount of such assessment or judgment to the commissioners of the drainage district so assessed or against which such judgment was rendered, and such commissioners shall at once levy an assessment upon the lands and corporations benefited by such drainage district to pay such assessment or judgment; and the assessment so levied shall be levied and collected in the same manner

as is provided in the statutes for the levying and collecting of assessments for "cost of construction."

2. This section shall be retroactive and shall apply to all cases wherein one drainage district shall have heretofore assessed another drainage district for special benefits or wherein a money judgment shall have been heretofore rendered against a drainage district.

Section 1379—32b. 1. It is hereby declared to be unlawful for any person, without the written consent of the drainage commissioners, to place any dam, sluice, bulkhead, log, timber, pole, lumber, brush, stone, earth, or other obstruction of any kind to the free flow of water in any ditch constructed under any drainage law of this state.

2. Any person or persons violating the provisions of this section shall upon conviction thereof be fined not less than one dollar nor more than twenty-five dollars and costs of prosecution for the first offense and not less than ten dollars nor more than one hundred dollars and costs of prosecution for each subsequent offense, and shall in addition be liable in damage to the drainage district and to all persons whose ditches or lands are injured by such obstruction for all damage and injury caused by such obstruction.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved July 3, 1911.

No. 525, S.]

[Published July 6, 1911.

CHAPTER 542.

AN ACT to create section 439ee of the statutes, relating to the duties of county and city superintendents of schools.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is added to the statutes a new section to read: Section 439ee. Each county and city superintendent of schools shall report to the bureau of labor and industrial statistics within ten days after the close of each month, commencing with the month of September and concluding with the month of June in each year, the name of each child residing in the county, district, or city under his supervision who during said month has not complied with the provisions of sections 439, 439a, 439b, 439eb, 439ec, or 439ed of the statutes, and the name and postoffice address of the parent or guardian of such child.