

No. 81, A.]

[Published June 12, 1915.]

CHAPTER 191.

AN ACT to amend sections 1359, 1360, 1361, 1362 and 1365, subsection 1 of section 1367c, section 1367j and the last paragraph of section 1368 of the statutes, relating to town drains.

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

SECTION 1. Sections 1359, 1360, 1361, 1362 and 1365, subsection 1 of section 1367c, section 1367j and the last paragraph of section 1368 of the statutes are amended to read: Section 1359. Whenever any six or more landowners in any town or towns, one of whom shall be an owner of land affected by the proposed drainage, wish to have a ditch, or drain or dyke or other work laid out or watercourse enlarged in said town or towns for the purpose of draining any marsh, swamp or overflowed lands, lying within said town or towns, or for the purpose of * * * protecting from erosion or the depositing of sand, sediment, or debris, they shall make such application in writing to the supervisors of said town, which application shall set forth:

- (1) The necessity of the proposed work, describing the same;
- (2) A map of the boundary of the area proposed to be drained or protected;
- (3) The location of the proposed drain. * * * drains or other proposed work;
- (4) A profile of the proposed drain or drains or the facts concerning the topography showing the proposed work to be feasible;
- (5) A name for the proposed drainage;
- (6) The names of the owners of the lands within the proposed drainage or protected area so far as known;
- * * * (7) An itemized statement of the cost of * * * the preliminary survey if any has been made;
- * * * (8) And they may include, if one has been obtained, a report of the college of agriculture on (a) the quality of the soil, (b) the feasibility of draining the area mapped, (c) the probable benefits from the proposed work, (d) the probable cost of constructing the proposed work, (e) the probable distribution of the benefits among the several parts of the * * * drainage or protected area;
- * * * (9) A prayer for the organization of a town drainage by the name and with the boundaries proposed, and for the construction of said drains under the direction of said board of supervisors.

Section 1360. Whenever any such application is made the said supervisors shall make out a notice and fix therein a time and place at which they will meet to examine and decide upon the same; such notice shall specify, as near as practicable, the route of the proposed drain, ditch or enlargement of watercourse and the several tracts of lands through *or along* which the same will pass; and the petitioners shall cause the notice to be served upon each of the resident owners of said several tracts of land, personally or by copy left at his usual place of abode, *or by mail addressed to his last known post-office address if any is known*, at least five days before the time fixed for such meeting, and copies thereof shall be posted up in three public places in the town in which the drainage is situated at least ten days before such time of hearing. Five days' personal service on all *resident* owners of lands affected or the service hereinabove provided shall be sufficient to give the supervisors jurisdiction.

Section 1361. The supervisors *or board* shall meet at the time and place fixed in such notice and upon being satisfied by affidavit or other proofs that the notice required in the preceding section has been duly given, shall proceed to examine the location where it is proposed to construct such drain, ditch, * * * enlargement of watercourse, *or protection*, and shall hear any reasons that may be offered for or against the laying out and construction thereof, and shall decide upon the application; but they may in their discretion adjourn such meeting from time to time, not exceeding in all twenty days after the day of hearing fixed in such notice, *unless longer adjournment is necessary to complete the giving of notice*, giving public * * * announcement of each such adjournment at the time of making the same. *If a majority of the supervisors or board shall not have been present at the place of meeting fixed in said notice at any time within one hour after the time fixed therein, the member or members present shall, after the lapse of one hour from the time fixed in the notice therefor, adjourn such meeting.*

Section 1362. If the supervisors shall find that the proposed work will promote the public health or will promote the public welfare and that the benefits thereof will exceed the damages and costs of construction they shall within ten days after the final hearing by written order grant the petition or a modification thereof, and *as soon as may be after the plans of the proposed work are made and agreed on by them* they shall award just damage to each piece of land damaged by the proposed work. * * * The town clerk shall place said order *or orders* on file in his office with the original petition and record the same. As

soon as may be thereafter the supervisors shall let the contract for the construction of the proposed work *as a whole or in parts to the lowest responsible bidder or bidders*, in such manner as to them shall seem most expedient. The cost of the preparation of the petition, * * * *other necessary papers, surveys and the awards for damages and a reasonable allowance for contingencies* shall be included in the total cost of construction.

Section 1365. Whenever it shall appear to the supervisors of a town in which a drain has been constructed under the provisions of this act *or any town drainage law of Wisconsin heretofore in force* that said drain should be cleaned or repaired, or whenever the expenses of an appeal to or other action in the courts shall make it necessary to raise money to defray said additional costs or expenses, the board of supervisors shall levy an additional assessment upon the several tracts of benefited land for said purpose on the basis of the previous assessment of benefits. All unpaid assessments for construction shall be a lien against the property assessed and shall be treated and collected, so far as may be, as delinquent taxes. The treasurer of the town when he collects or returns such assessments shall collect or return in addition interest on said assessments from the date of said assessment at the rate of six per cent per annum.

(Section 1367c) 1. If the lands to be drained lie partly within two *or more* towns or partly within a town *or towns* and partly within a city *or cities* or partly within a town *or towns* and partly within an incorporated village *or incorporated villages*, or partly within one city and partly within another city, or partly within a city and partly within an incorporated village, or partly within one incorporated village and partly within another * * * *incorporated village as many originals of the application shall be made * * * as there are corporations and quasi corporations in which said drainage will lie and one * * * original thereof shall be filed with * * * the clerks of * * * each of such corporations and quasi corporations.*

Section 1367j. In case the owners of a majority of the assessed lands so desire *and shall file with the town clerk a notice to that effect duly signed by each of such owners*, the supervisors, committee or drainage board in charge of a drainage under sections 1359 to 1367 of this chapter may borrow money to pay the cost of construction of said drainage, said money to be paid in * * * *not more than ten equal annual instalments*, and may issue drainage securities bearing interest at not exceeding six per cent per annum, payable annually. *One of the signers of such notice shall file with such notice an affidavit that the persons whose*

*names appear thereon constitute a majority of the owners of the assessed land. * * * In the event that drainage securities are issued they shall become due June fifteenth and the proportion of the assessments necessary to pay the annual instalments thereon which become due each year shall become due and be collected with the regular taxes in advance of the coming due of the instalment of the drainage securities for the payment of which it is herein pledged.* Said drainage securities shall be a lien on said assessments and the money paid thereon and said assessments shall bear six per cent interest from their date, to be added to the tax roll and collected each year with the taxes against the assessed lands and corporations. Any assessment may be paid in full at any time before such drainage securities are sold.

(Section 1368) (last paragraph) Whenever any person shall prevent or threaten to prevent any such permitted person or his employes going upon any land to take such levels and make such surveys and observations the facts may by any interested person be brought before the circuit court of the proper county *or a judge thereof* and such court *or judge* shall upon showing of the facts issue an injunction enjoining and restraining such person, his employes, agents and servants and all other persons from interfering with or preventing the taking of such levels or the making of such observations and surveys.

SECTION 2. This act shall take effect upon passage and publication.

Approved June 10, 1915.

No. 157, A.]

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CHAPTER 192.

AN ACT to amend section 3 of chapter 249 of the laws of 1895, and section 9 of said chapter, as amended by chapter 55 of the laws of 1909, relating to the jurisdiction of the county court of Lincoln county.

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

SECTION 1. Section 3 of chapter 249 of the laws of 1895, and section 9 of said chapter, as amended by chapter 55 of the laws of 1909, are amended to read: (Chapter 249, laws of 1895) Section 3. In case of the absence, sickness or disability of the county judge, he may, by a written order, to be copied in his docket, appoint the municipal judge of Lincoln county, *or any court commissioner of Lincoln county* to discharge the duties of county