

No. 695. A.]

[Published June 18, 1909.]

CHAPTER 434.

AN ACT to amend sections 1379—11, 1379—15 and 1379—16 of the statutes, relating to drainage district proceedings.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Sections 1379—11, 1379—15 and 1379—16 of the statutes are amended to read: Section 1379—11. 1. Whenever a majority of the adult owners of lands within any district of land, who shall represent one-third in area of the lands within said district to be reclaimed or benefited or whenever the adult owners of more than one-half of the lands within such district desire to construct one or more drains, ditches, levees, or other works across the lands of others, for the promotion of the public health or welfare, and the drainage of said lands, or desire to maintain and keep in repair any such drain, ditch, or levee heretofore constructed under any law of this state, such owners may file in the circuit court of any county in which the lands, or any part of them, shall lie, a petition setting forth.

(1) * * * The proposed name of said drainage district.

(2) * * * The necessity of the proposed work, describing the necessity.

(3) * * * A general or a detailed description of the proposed starting points, routes and termini of the proposed drains, ditches and levees.

(4) * * * A general or a detailed description of the lands proposed to be included in said district.

(5) * * * The names of the owners of all lands in said district when known.

(6) * * * If the purpose of said petitioners is the enlargement, repair and maintenance of a ditch, levee or other work heretofore constructed under any law of this state, said petition shall give a general description of the same, with such particulars as may be deemed important.

(7) * * * Said petition shall pray for the organization of a drainage district by the name and with the boundaries proposed, and for the appointment of commissioners for the execution of such proposed work, according to the provisions of this and the following sections.

2. No petition having as many signers as are required by this section shall be declared void, but the court may at any time permit the petition to be amended in form and substance

to conform to the facts, if the facts justify the organization of a drainage district. Several similar petitions for the organization of the same district may be circulated, and when filed shall together be regarded as one petition having as many signers as there are separate adult signers on the several petitions filed, who own land within said proposed drainage district. All petitions for the organization of said district filed prior to the hearing on said petition shall be considered by the court, the same as if filed with the first petitions placed on file, and the signatures thereon contained shall be counted in determining whether sufficient land-owners have signed said petition.

3. Said territory need not be contiguous, provided that it be so situated that the public health or welfare will be promoted by such drainage of each part thereof and the benefits of the proposed work in each part will exceed the damages from and costs of said proposed work in each part; and provided further that the court shall be satisfied that said proposed work can be more cheaply done if in a single district than otherwise.

4. *If any minor or incompetent persons have any interest in any lands included within a drainage district proposed to be organized under chapter 419 of the laws of 1905 [Sections 1379—11 to 1379—32b inclusive] of Wisconsin, the general guardian or next of kin of such minor or incompetent person may, for and on behalf of said minor or incompetent person, join in the petition for the organization and establishment of such district. If any minor or incompetent person, having an interest in lands within a drainage district proposed to be organized under said chapter 419 of the laws of 1905, [Sections 1379—11 to 1379—32b inclusive] has no general guardian, and his or her next of kin do not reside in Wisconsin any person interested in the organization of said proposed drainage district may file a petition in the court having jurisdiction of the appointment of a general guardian of such minor or incompetent person asking for the appointment of such general guardian, and said court may in its discretion appoint such general guardian.*

5. *All lands and interest in lands in said proposed district owned by such minor or incompetent persons, whose guardian or next of kin signs said petition under the authority herein granted, shall be counted in determining whether sufficient land owners have signed said petition, the same as if such minors or incompetent persons had been adult and competent.*

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 state 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. A majority shall constitute a quorum and a concurrence of a majority in any matter within their duties shall be sufficient to its determination.

2. The commissioners first appointed shall hold their office until the first Tuesday in the second succeeding July following the date of the order organizing such district and until their respective successors are qualified. All commissioners appointed after the first board, excepting those appointed to fill vacancies, shall hold their respective offices for the term of two years and until their respective successors are qualified.

3. Appointments to fill expired terms in the office of drainage commissioner shall be made by the presiding judge of the circuit court of the county having jurisdiction of the drainage district at the court house therein on the first Tuesday of July in each succeeding year or as soon thereafter as possible.

4. Vacancies in the board may be filled by such judge at any time, the commissioners appointed to hold for the residue of the unexpired term. The removal of any commissioner from the county or counties in which lands of such district are situated shall render his office vacant.

5. The commissioners shall keep an accurate record of all moneys collected on account of the work under their charge and of all payments made by them, and shall take vouchers for such payments and shall keep full, accurate and true minutes of all their proceedings.

6. On the first Tuesday of July 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 leave said report in such office for examination by parties interested at all times.

7. They shall receive for their services three dollars and fifty cents per day and their actual reasonable expenses.

8. They shall at all times be under the control and direction of the court or presiding judge, and shall obey its or his directions; for failure so to do they shall forfeit their compensation and be dealt with summarily as for contempt.

9. Suit may also be brought upon their bonds, in the name of the clerk of the court, and the amount recovered shall be applied to the construction of the work or to the party injured, as justice may require.

10. *If the petition provided for in section 1379—11 contains a detailed description of the proposed work, and a detailed description of the extent of the proposed district, and is accompanied by exhibits showing profiles and maps and the estimated cost and benefits of the proposed work, and prays that the commissioners appointed be ordered by the court to omit the preliminary report in section 1379—16 provided, and to proceed directly with the preparation of the report, in section 1379—18 provided, and if the court is convinced by evidences at hand that the omission of said preliminary report is justifiable, said court shall so order. The court shall allow the legitimate expenses incurred in the preparation of the report.*

Section 1379—16. 1. Within ten days after said commissioners shall be appointed and qualified they shall meet and organize by electing one of their number secretary, and as soon as may be thereafter, *except as hereinbefore provided* they shall personally examine the lands in said district and make a preliminary report to the court, which report shall state:

(1) Whether said proposed work is necessary, or would be of utility in carrying out the purposes of the petition.

(2) Whether the proposed work would promote the public health.

(3) Whether the proposed work would promote the public welfare.

(4) Whether the total benefits from said proposed work will exceed the cost thereof together with the damages resulting therefrom; and in arriving at this they shall include all benefits and all damages resulting therefrom, both within and without said district.

(5) Said commissioners shall, in said report, fix as near as may be and report to the court, the boundaries of said proposed drainage district. Said boundaries shall not be so changed from those in the petition described as to deprive the court of jurisdiction by reason of not having on the petition the required number of signers owning land within said changed boundaries.

2. *Any adult persons owning land within the district proposed by the original petition, or within the district as changed or enlarged by either the first or the second report of the commissioners may, at any time file in court a request to be joined as petitioners, and the court may, by order, permit such persons to be joined as petitioners with like force and effect as if they had signed the original petition; and thereafter such owners, so brought in, shall be counted as original petitioners for all purposes. The original petition and any other petition filed may be signed by the owner or by any agent authorized in writing to sign said owner's name.*

3. If said proposed work, as in the petition described, is not best suited to carry out the purposes of the petition, the commissioners shall consider and base their report upon the one best suited to carry out these purposes, and propose to the court the one by them considered.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 15 1909.

No. 193, S.]

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CHAPTER 435.

AN ACT to amend subsection 2 of section 44—8, subsection 12 of section 69, and section 77, and creating section 4545a, of the statutes, relating to the use of voting machines, registration of electors and canvass and return of votes at elections, and providing punishment for violation of election laws.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subsection 2 of section 44—8 of the statutes is amended to read: 2. The ballots shall be placed on or in the machine in the order of arrangement provided by section * * * 38 of the statutes * * * as amended, except that they may be vertical columns or horizontal rows. Ballots for all questions must be provided in the same manner and must be arranged on or in the machine in the places provided for such purpose. *Voting machines shall be prepared and in place in the voting booths on the last registration day and on one other day preceding election day, in charge of the inspectors or other competent persons, who shall instruct the voters how to operate the same.*

SECTION 2. Subsection 12 of section 69 of the statutes is amended to read: Twelfth. If an unmarried person sleeps