

IRRIGATION.

CHAPTER 75.

[H. B. No. 240.]

TO PROMOTE IRRIGATION.

AN ACT to Promote Irrigation.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PETITION TO COUNTY COMMISSIONERS—TRUSTEES.] Whenever the owners of any body of lands susceptible of one mode of irrigation desire to irrigate the same, they may present to the board of county commissioners of the county in which the lands, or a greater portion thereof, are situated, at a regular or special meeting of the board, a petition setting forth that they desire to adopt measures to irrigate the same, the description of the lands by legal subdivisions, the number of acres in the whole district and the number of acres in each tract, with the names of the owners thereof and the names of three persons who may desire to serve as trustees for the first three months, and the name desired for the proposed irrigation district.

§ 2. PETITION TO BE PUBLISHED.] The petition must be verified by the affidavit of one of the petitioners, and must be published for two weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands are situated, or if there is no newspaper published in the county, then it must be published in some newspaper having a general circulation in the county, and an affidavit of publication must be filed with such petition.

§ 3. WHEN DISTRICT IS IN TWO COUNTIES.] When a district is situated partly in different counties the trustees must after the petition has been granted, forward a copy thereof to the clerk of the board of county commissioners of each of the counties in which any portion of the district may lie, and the board to which the same is forwarded must not allow another district to be formed within such district unless with the consent of the trustees thereof.

§ 4. APPROVAL OF COUNTY COMMISSIONERS.] If the board of county commissioners find, upon the hearing of the petition, that the statements are correct, and that no land is improperly included or excepted from the district, they must note their approval on the petition, which approval must be signed by the

president and attested by the county auditor, and from and after the approval the district shall be considered to be duly formed, and the persons named in the petition shall be the trustees for the first three months and until their successors are appointed.

§ 5. PETITION RECORDED.] The petition must then be recorded by the register of deeds in a book kept for that purpose.

§ 6. BY-LAWS.] After the approval of the petition the petitioners may make such by-laws as they deem necessary for future appointment of trustees and to effect the works of irrigation, keep the same in repair and operation, and for the control and management thereof, by the votes of consent of a majority of the owners of the lands within their district.

§ 7. BY-LAWS, TO BE SIGNED AND RECORDED.] The by-laws adopted must be signed by persons owning a majority of the land within the district, and must be recorded by the register of deeds in the same book and immediately following the petition.

§ 8. POWER OF BOARD.] The board thus formed shall have power to elect one of their number president thereof, and to employ engineers to survey, plan, locate and estimate the cost of the works necessary for the irrigation, including dams, canals, sluices, water gates, embankments and materials for construction, and to construct, maintain and keep in repair all works necessary to the object in view.

§ 9. REPORTS.] The board of trustees must report to the board of county commissioners of the county, or if the district is in more than one county, then to the board of county commissioners of each county in which the district is situated, the plans of the work and estimates of the cost, together with estimates of the incidental expenses of superintendence, repairs, etc.

§ 10. ASSESSMENT OF BENEFITS.] The board by which the district was formed must appoint three commissioners, disinterested persons, resident in the county in which the district or some portion thereof is situated, and must view and assess upon the lands situated in the district a charge proportionate to the whole expense and to the benefits which will result from such works, which charge must be collected and paid into the county treasury as hereinafter provided, and must be placed by the treasurer to the credit of the district, and paid out for the work of irrigation upon the warrants of the trustees, approved by the board of county commissioners of the county.

§ 11. WARRANTS OF TRUSTEES, HOW PAID.] The warrants drawn by the trustees must, after they are approved by the board of county commissioners, be presented to the treasurer of the county, and, if they are not paid on presentation, like indorsement must be made thereon, and they must be registered in like manner as county warrants.

§ 12. CHARGE IN COUNTY WHERE LAND SITUATED.] If a district is situated partly in different counties the charge must be

paid into the treasury of the county in which the particular tract may be situated.

§ 13. ADDITIONAL ASSESSMENTS, HOW LAID.] If the original assessment is insufficient to provide for the complete irrigation of the lands of the district, or if further assessments are from time to time required for the protection, maintenance and repair of the works, the trustees must present to the board of county commissioners in which the district was formed a statement of the work to be done and its estimated cost, and the board must make an order directing the commissioners who made the original assessment, or other commissioners to be named in such order to assess the amount of such estimated cost as a charge upon the lands within the district, which assessment must be made and collected in the same manner as the original assessment.

§ 14. LIST OF CHARGES AGAINST LAND.] The commissioners appointed by the board of county commissioners shall make a list of the charges against each tract of land.

§ 15. WHAT LIST TO CONTAIN.] The list must contain:

1. A description by legal subdivisions or natural boundaries of each tract assessed.

2. The number of acres in each tract.

3. Names of the owners of each tract, if known, and if unknown that fact.

4. The amount of the charge assessed against each tract.

§ 16. LIST TO BE FILED.] The list so made must be filed with the county treasurer of the county, or if the district is partially situated in different counties, then the original list must be filed in the county first in order under alphabetical arrangement, and copies thereof, certified by the commissioners, must be filed with the treasurer of each of the other counties.

§ 17. CHARGES CONSTITUTE A LIEN.] From and after the filing of the list, or certified copy thereof, the charges assessed upon any tract of land within the county constitutes a lien thereon.

§ 18. DELINQUENTS MAY PAY TREASURER, WHEN.] The lists thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees, and during the time they so remain any person may pay the amount of the charge against any tract to the treasurer, without cost.

§ 19. DELINQUENCIES, HOW COLLECTED.] If at the end of thirty days, or of the longer time fixed by the trustees, all of the charges have not been paid, the treasurer must return the list to the states attorney, who must at once proceed by civil action to collect such charges.

§ 20. WORK, HOW EXECUTED.] The work must be executed under the direction and in the manner prescribed by the board of trustees.

§ 21. ACCOUNTS, HOW KEPT.] The board must accurately keep all accounts of expenditures, which accounts, and all contracts

that may be made by them, shall be open to the inspection of the board of county commissioners and every person interested.

§ 22. TRUSTEES MAY ACQUIRE PROPERTY.] The trustees may acquire by purchase all property necessary to carry out and maintain the system of irrigation provided for.

§ 23. CONDEMNATION PROCEEDINGS.] The trustees may acquire by condemnation:

First. The right to use of any running water not already used for culinary or domestic purposes, or for irrigating, milling or mining purposes.

Second. The right of way for canals, drains and embankments, and other work necessary, and may take materials for the construction, maintenance, and repair thereof, from lands within the limits of the district.

§ 24. CONDEMNATION, HOW MADE.] The provisions of Section 3000, Compiled Laws, are applicable to, and the condemnation herein provided for must be made thereunder.

§ 25. IN CASE OF SINGLE OWNERSHIP.] Whenever any district susceptible of one mode of irrigation is entirely owned by parties who desire to irrigate the same and to manage the irrigation without the intervention of trustees or the establishment of by-laws, they may file the petition provided for in Sections 1 and 2, and must state therein that they intend to undertake the irrigation on their own responsibility.

§ 26. RIGHTS AND IMMUNITIES.] If the petition is granted, the owners of the land shall have all the rights, immunities and privileges granted to boards of trustees, and in all proceedings the names of the owners may be used instead of the names of trustees.

§ 27. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1891.

CHAPTER 76.

[H. B. No. 224.]

CREATING THE OFFICE OF SUPERINTENDENT OF IRRIGATION AND FORESTRY.

AN ACT Entitled "An Act Creating the Office of State Superintendent of Irrigation and Forestry, and Prescribing the Duties Thereof."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATION OF OFFICE.] That the office of State Superintendent of Irrigation and Forestry is hereby created and an officer to be known as the State Superintendent of Irrigation and

Forestry shall be appointed by the Governor, by and with the advice and consent of the Senate.

§ 2. TERM OF OFFICE.] The first term of said office of State Superintendent of Irrigation and Forestry shall expire on the 1st day of March, A. D. 1893. The term of office thereafter shall be two years.

§ 3. QUALIFICATION.] The State Superintendent of Irrigation and Forestry shall, before entering upon the duties of his office, take and subscribe to an oath to support the Constitution of the United States and that of this State and that he will faithfully discharge the duties of his office according to the best of his ability. Said oath shall be deposited in the office of the Secretary of State.

§ 4. SALARY.] The State Superintendent of Irrigation and Forestry shall receive for his services a salary of one thousand per year, and five hundred dollars per year for traveling and other expenses.

§ 5. POWERS AND DUTIES.] The State Superintendent of Irrigation and Forestry shall have charge of the development of a system of irrigation within the State by means of artesian wells, dams, reservoirs, storage works, canals, or other methods that may be found practical or may be adopted by the State or the people; shall have jurisdiction over the system or department of State forestry, and shall clearly explain its necessity and economic uses, and by desirable methods aid in promoting tree culture in this State; shall superintend all meteorological or weather stations or schools, and shall render such assistance as shall best conduce to their usefulness. And he shall investigate and explain all the laws, causes and operations of rain falls and, as far as possible, show how they can be increased or produced by scientific methods or inventive skill; and he shall present the best systems for obviating, as far as it can be done, all unfavorable or dangerous climatic disturbances. He shall visit such parts of the State as he may deem necessary, or as the Governor may direct him to visit, and examine and make notes of the geological formation, topography, water supply, its extent, pressure, operation and utility, and other features bearing upon artesian wells, and all other methods of irrigation and water supply from all attainable sources, and shall investigate the workings and gather all statistical information in relation to tree culture and meteorological observations or experiments. And he shall recommend to the Legislative Assembly, at its next session, the enactment of such measures as he may deem necessary to develop and make practical the systems beneficial to agriculture and the people, coming under his jurisdiction.

§ 6. CO-OPERATION.] It shall be the duty of the State Superintendent of Irrigation and Forestry to co-operate with the officers of the government of the United States in any survey or other work designed to establish a system of irrigation, or to

solve the irrigation problems peculiar to the State of North Dakota.

§ 7. EXPERIMENTAL AND OBSERVATION STATIONS.] The State Superintendent of Irrigation and Forestry shall, as soon as practical, establish, each by itself, irrigation and meteorological experimental and observation stations wherever the same may be beneficial, but only where the service of practical farmers or other persons can be secured without expense to the State. The observers appointed under this section shall note carefully the time and manner of applying water artificially to the soil, and its effect on vegetation, and they shall collect such other data as may be beneficial in solving the problem of irrigation, and shall give all possible meteorological data and facts, and shall make reports of the same to the State Superintendent of Irrigation and Forestry under such rules as the said Superintendent may prescribe.

§ 8. ANALYSES.] It shall be the duty of the State Superintendent of Irrigation and Forestry to procure an analyses of soil and water of different sections of the State. The president of the Agricultural College at Fargo shall co-operate with and assist the said Superintendent in the work of analyses, to the end that the adaptability of the water to the soil may be determined.

§ 9. ANNUAL REPORT.] It shall be the duty of the State Superintendent of Irrigation and Forestry to report annually to the Governor on the 1st day of December, giving a detailed account of the work performed by him during the year; with his recommendation of such legislation as he may think needful, bearing upon the subjects involved in his department.

§ 10. EMERGENCY.] Whereas an emergency exists in that there is no law regulating the matters involved in this act, and as the best interest of the State demand their prompt application, therefore this act shall be in force immediately from and after its passage and approval.

Approved March 7, 1891.