

collection and the payments of such collections shall be made through the treasurer of the watershed improvement district and deposited in the depository thereof to the credit of such district. All expenditures of such funds shall be made by the board of directors upon order of the board, under the supervision of the board of supervisors.

41-8-123. Lien of assessment; collection of delinquent assessments.

All taxes and assessments levied against any land under this act together with all interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien upon such land on a parity with the tax lien of general, state, county, city, town or school taxes and no sale of such land to enforce any general, state, county, city, town or school tax or other liens shall extinguish the perpetual lien of such taxes and assessments. If the taxes and assessments levied are not paid as herein provided, then such land shall be sold at the regular tax sale for the payment of said taxes and assessments, interest and penalties, in the manner provided by the statutes of this state for selling real property for nonpayment of general taxes.

41-8-124. Repealed by Laws 1998, ch. 115, § 5.

41-8-125. Supervision upon discontinuance.

If any soil and water conservation district in which a watershed improvement district is situated is discontinued, the state soil and water conservation committee [conservation commission] shall thereafter serve in the same supervising capacity over the watershed improvement district as was theretofore served by the board of supervisors of such soil and water conservation district.

41-8-126. Existing water rights preserved.

Nothing in this act shall be so construed as to in any manner impair existing water rights, appropriations or priorities.

CHAPTER 9 - DRAINAGE DISTRICTS

ARTICLE 1 - ORGANIZATION AND PRELIMINARY REPORT OF COMMISSIONERS

41-9-101. Petition for organization; when filed; contents; service of notice or petitions generally.

(a) 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 (1) 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 district court of any county in which the lands, or any part of them, shall lie, a petition setting forth:

(i) The proposed names of said drainage district;

(ii) The necessity of the proposed work, describing the necessity;

(iii) A general description of the proposed starting points, routes and termini of the proposed drains, ditches, and levees;

(iv) A general description of the lands proposed to be included in said district;

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

(b) 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.

(c) Said petition shall pray for the organization of a drainage district by the name and within 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.

(d) Any lands, the title to which is in the state of Wyoming, and which are within the boundaries of any drainage district heretofore created, or which may be hereafter created, may be included in any such drainage district in the same manner as is by law provided for adding other lands to drainage

districts whenever it is found necessary to include lands in drainage districts, as by the preceding paragraphs provided.

(e) Any and all copies of petitions, or notices, required by law to be served on account of such lands being included in such drainage districts, shall be served on the president of the board having control of such lands in the same manner as is hereinafter provided for the service of petitions and notices on other owners of lands in the district in which said lands are situated.

41-9-102. Petition for organization; amendment; multiple petitions.

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 (1) petition having as many signers as there are separate adult signers on the several petitions filed, who own lands 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 is filed with the first petitions placed on file, and the signatures thereon contained shall be counted in determining whether sufficient landowners have signed said petition.

41-9-103. What lands may be included.

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.

41-9-104. Notice of hearing; service generally; contents.

(a) On such petition being filed the court or judge thereof shall make an order fixing a time and place of hearing thereon and ordering notice; thereupon the clerk of said court, for the county in which the proceedings are instituted, shall

cause twenty (20) days notice of the filing of such petition to be given:

(i) By serving or causing to be served a copy of such notice on each owner of land within said proposed district, residing in any county in which any lands in said proposed district are situated, either personally or by leaving a copy thereof at his last usual place of abode, with a person of suitable age and discretion, and by registered mail to any mortgagee, mortgagees or judgment lienholder whose address is of record in the records of said liens in the county or counties in which said district is situated; and

(ii) By publishing a copy thereof at least once a week for three (3) successive weeks in some newspaper published in each county from which any part of the district is proposed to be taken. If there be no newspaper in any such county, such notice may be published in a newspaper published in an adjoining county.

(b) Such notice shall state:

(i) In what court said petition is filed;

(ii) State briefly the starting points, routes and termini of said drains, ditches and levees;

(iii) Give a general description of the proposed work;

(iv) Give the proposed boundaries of said district (or a general description of all of the lands in said proposed district);

(v) Give the name proposed for said drainage district; and

(vi) Shall also state the time and place by the court fixed, when and where the petitioners will ask a hearing on said petition.

41-9-105. Notice of hearing; nonresidents.

If any of the owners of land in said district are nonresidents of the county or counties in which the proposed district lies, the petition shall be accompanied by an affidavit giving the names and post-office address of such nonresidents, if such are

known, and if unknown shall state that, upon diligent inquiry their names or post-office addresses (whichever may be the fact) cannot be ascertained. The clerk of the court shall mail a copy of the notice aforesaid to each of said nonresident owners whose post-office address is known, within six (6) days after the first publication of the same.

41-9-106. Notice of hearing; proof of service.

The certificate of the clerk of the court or other public officer, or the affidavit of any other person who knows the facts, affixed to a copy of said notice, shall be sufficient evidence of the posting, serving, mailing or publication thereof.

41-9-107. Notice of hearing; effect of personal service.

Personal service of said notice on (or service by leaving at the last usual place of abode of) all owners of lands or easements or interest in lands within said district, shall give the court complete jurisdiction, without posting, publication or mailing of said notice.

41-9-108. Notice of hearing; adjournment of hearings when notice not fully served.

If it shall be found, before the hearing on a petition for the organization of a drainage district, that one (1) or more owners of land in said district have not been duly served with notice of hearing on said petition, the court, or presiding judge, shall not thereby lose jurisdiction. The court, or presiding judge, in such case shall adjourn the hearing, make an order directing the serving of said notice upon said landowner, and fixing the time and manner of service of such notice, which notice shall notify him to appear at said adjourned time and place and be heard on said petition.

41-9-109. Notice of hearing; service after adjournment.

Said notice shall be served personally or by leaving at the last usual place of abode of said unserved owners, as in W.S. 41-9-104; provided, not less than eight (8) days before said adjourned hearing, or published not less than fourteen (14) days before said adjourned hearing, in some newspaper published in the county in which said owners' lands lie, or if no newspaper be published in said county, then in some newspaper published in an adjoining county.

41-9-110. Notice of hearing; defective service generally.

Upon the adjourned day the same proceedings, adjournments, trial findings and orders may be had as in case of complete service of notice in the first instance. In case of failure to mail said notice as herein required, the court or judge may order the same mailed later and shall adjourn said hearing so that said notice shall be mailed at least fourteen (14) days before said adjourned hearing. In case of failure to publish or post notice, as in this act required, the court or judge may adjourn said hearing for sufficient time to permit the due posting and publication of said notice, and order said notice posted or published as in W.S. 41-9-104 hereof directed. In case of adjournment to permit notice to be given the notice shall state the fact of such adjournment and the time and place of hearing pursuant to said adjournment.

41-9-111. Hearings; grounds for contesting.

On the day fixed for hearing on such petition all parties owning lands, or any interest or easement in land, within said proposed district, or who would be affected thereby, may appear and contest (a) the sufficiency of the petition, (b) the sufficiency of the signers of the petition, (c) the sufficiency of the notice, (d) the constitutionality of the law, and (e) the jurisdiction of the court, specifying their objections to such jurisdiction; and the petitioners and contestants may, on the trial, offer any competent evidence in regard thereto. All notices of contest shall be in writing and shall clearly specify the grounds of contest.

41-9-112. Hearings; procedure generally.

The court shall hear and determine whether or not the petition contains the signatures of a majority of the adult owners of lands within the said proposed district who are of lawful age, and who represent one-third in area of the lands proposed to be affected by said work, or the signatures of the adult owners of more than one-half of such lands and shall determine all questions of law arising on said contest. The district court in which such petition shall be filed or the judge thereof may adjourn the hearing on said petition from time to time for want of sufficient notice, or to give time to prepare for trial, or for other good cause.

41-9-113. Hearings; affidavits of petitioners as evidence.

The affidavit of any three (3) or more of the signers of said petition stating that they have examined it and are acquainted with the locality of said district and that said petition is signed by a sufficient number of adult owners of lands in said district, to satisfy W.S. 41-9-101, may be taken by the court or judge as prima facie evidence of the facts therein stated. And the affidavit of any petitioner or other landowner before such court, or represented before the court, giving the age of such affiant and his or her ownership of such lands, to be named therein by proper description, shall be sufficient evidence to the court of such facts.

41-9-114. Hearings; dismissal of defective petition.

If the court or presiding judge thereof, after hearing any and all competent evidence that may be offered for and against the said petition, shall find that the same has not been signed as herein required, the said petition shall be dismissed at the cost of the petitioners, and judgment shall be entered against said petitioners for the amount of said costs.

41-9-115. Fraudulent conveyances to defeat or establish petition.

All deeds made for the purpose of establishing or defeating the prayer of said petition, and not made in good faith and for a valuable consideration, shall be taken and held to be a fraud and the holders thereof shall not be considered as the owners of the land described therein.

41-9-116. District commissioners; number; appointment; preliminary bond; qualifications; petition for election; election decree; election procedures; modification of decree.

If it shall appear that the petition has so been signed, the court or judge shall so find, and order any necessary amendments thereto, and shall appoint three (3) suitable, competent persons as commissioners, and fix their preliminary bond. If the district is situated in two (2) or more counties, not more than two (2) of said commissioners shall reside in any one (1) of said counties. Ownership of land within the district shall not disqualify a person from acting as a commissioner. Provided, however, after the appointment of the first board of commissioners a majority of the owners of land within said district who own one-third in area of the lands within said district, shall petition the court asking that the commissioners

of said district be elected by vote of the owners of land assessed in said district, the court shall make and enter an order fixing the time of the annual election for said district, prescribing the manner of giving notice of such election, and the manner in which such election shall be conducted, and may provide for cumulative voting; said order may provide for the election of one (1) commissioner for one (1) year and two (2) commissioners for two (2) years at the first election, succeeding commissioners to be elected for two (2) years; at such election every person, company or corporation owning land assessed for benefits within such district shall be entitled at such election to cast one (1) vote for each acre of land, or fraction thereof, owned by such person, company or corporation within said district and assessed for benefits therein; such order shall provide for voting by proxy, and such order may be modified from time to time upon petition as herein provided for the election of commissioners, and upon like petition such order may be revoked and thereafter such commissioners shall be appointed by the court.

41-9-117. District commissioners; oath; bond generally; quorum.

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 Wyoming, 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.

41-9-118. District commissioners; term.

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 (2) years and until their respective successors are qualified.

41-9-119. District commissioners; new appointments.

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

41-9-120. District commissioners; vacancies.

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.

41-9-121. District commissioners; financial records, minutes of meetings to be kept.

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.

41-9-122. District commissioners; filing of annual financial report.

On the first Tuesday of July each year they shall file in the office of the clerk of the court having jurisdiction in 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.

41-9-123. District commissioners; compensation and expenses.

They shall receive for their services such compensation as the court or presiding judge thereof may determine. They shall also receive their actual reasonable expenses.

41-9-124. District commissioners; under control and direction of court; failure to obey.

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.

41-9-125. Suit on bond of commissioners.

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.

41-9-126. Organization of commission; examination of lands; contents of preliminary report.

(a) Within ten (10) days after said commissioners shall be appointed and qualified they shall meet and organize by electing one (1) of their number secretary, and as soon as may be thereafter, they shall personally examine the lands in said district and make a preliminary report to the court, which report shall state:

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

(ii) Whether the proposed work would promote the public health;

(iii) Whether the proposed work would promote the public welfare;

(iv) 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;

(v) 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.

41-9-127. Change of plan proposed in petition.

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 (1) best suited to carry out those purposes and propose to the court the one (1) by them considered.

41-9-128. Hearings on report; notice generally.

Upon the filing of the preliminary report the court or the presiding judge thereof shall by order fix a time and place when and where the same shall be heard at some general or special term of said court, not less than thirty (30) days from the filing of said report. Notice of the time and place of hearing upon said preliminary report shall be given to all interested persons by publishing a brief notice of the filing of said report, including a brief statement of the substance of said report, in one (1) or more newspapers published in each county in which any land in said proposed drainage district shall be situated (or if no newspaper is published in said county, in one (1) or more newspapers in an adjoining county) once in each week for three (3) successive weeks prior to the day appointed for hearing thereon. Said notice shall describe all lands by said report included in said district, which were not included therein by the petition, and state that such lands are to be included in said district, and shall describe all lands excluded from said district which were by the petition included therein and shall state that such lands are to be excluded from said district.

41-9-129. Hearings on report; notice to owners of added lands.

When lands are added to the district the owners thereof shall be served with said notice as provided for serving of notice of hearing on the petition.

41-9-130. Hearings on report; adjournment.

Upon the day fixed for hearing upon said report, said court may adjourn said hearing for good cause or may proceed to hear, try and determine all issues arising upon said report.

41-9-131. Hearings on report; remonstrances.

Any interested party may appear and remonstrate against said report or any material part thereof. All remonstrances shall be in writing, be verified on oath, be filed at least five (5) days before the day fixed for hearing, and shall set forth the facts upon which they are based.

41-9-132. Hearings on report; trial; when petition for organization dismissed.

All issues arising upon said preliminary report shall be tried by the court without a jury. If the court shall find in favor of the remonstrance, or if said report be that the proposed work will not promote the public health, and will not promote the public welfare, or that the benefits from said proposed work will not exceed the damages and cost of construction, and no remonstrance against said report is filed, the petition shall be dismissed and the costs taxed against the petitioners, and judgment entered therefor, as in W.S. 41-9-231 hereinafter provided.

41-9-133. Hearings on report; when report confirmed.

But if the preliminary report be that the benefits of said proposed work (or work by the commissioners proposed) will exceed the damages and the cost of construction and that the public health will be promoted thereby, or that the public welfare will be promoted thereby, and no remonstrance thereto is filed, or if on trial of the issues made on said report the court finds that the benefits will exceed the damages and cost of construction, and that the public health or the public welfare will be promoted by said proposed work, the court shall make and file such findings in writing and make an order confirming said report, or directing amendment of the report to conform to the findings of said court. And when so amended the court shall by order confirm the same, and direct said commissioners to proceed with said work with all convenient speed.

41-9-134. Hearings on report; findings conclusive; appeal.

Such findings and order shall be final and conclusive unless appealed from to the supreme court within thirty (30) days after filing thereof.

41-9-135. Creation of corporate entity upon confirmation of report.

Upon entering of such order of confirmation of said preliminary report of record, such drainage district shall be, and is thereby declared to be organized as a drainage district, by the name mentioned in said petition, or such other name as the court shall fix, with the boundaries fixed by the order confirming the report of said commissioners, to be a body corporate by said name fixed in said order, with the right to sue and be sued, to adopt and use a seal, and to have perpetual succession.

41-9-136. Corporate authorities.

The commissioners appointed as aforesaid and their successors in office shall, from the entry of such order of confirmation, constitute the corporate authority of said drainage district, and shall exercise the functions conferred on them by law, and do all things and perform all acts necessary to the construction and preservation of the proposed work.

41-9-137. All proceedings deemed necessary.

All proceedings herein required, prior to the entry of such order of confirmation of record, shall be deemed to be and are hereby declared to be necessary to the formation of said body corporate.

ARTICLE 2 - OPERATION AND ADMINISTRATION

41-9-201. Authority of commissioners to enter lands for repairs.

The commissioners, their agents, servants and employees shall have the right to go upon all lands along any drain, ditch, levee or embankment in their district, to inspect, deepen, widen and repair the same whenever necessary, doing no unnecessary damage, and shall not be liable for trespass therefor.

41-9-202. Power of eminent domain.

Any drainage district created and existing under W.S. 41-9-101 through 41-9-278 may, whenever it shall require a way of necessity outside its boundaries for any of its work or works theretofore authorized by the court, proceed to procure the same by the exercise of the power of eminent domain.

41-9-203. Presumption of validity of acts of commissioners.

Commissioners of drainage districts are hereby declared to be public officers. The presumption shall be in favor of the regularity and validity of all their official acts. Whenever any report of the commissioners of any drainage district or any part of any such report is contested, remonstrated against or called in question, the burden of proof shall rest upon the contestant, remonstrant or questioner.

41-9-204. Commissioners under supervision of court; removal; new bonds.

The court shall at all times have supervision of said commissioners, and may at any time require them to make a report on any matter or matters connected with their duties as commissioners, and after due hearing may remove from office any or all of said commissioners for neglect of duty or malfeasance in office or for other good cause. The court may at any time require the commissioners to give new bonds to the clerk of the court and may fix the amount thereof, and said bonds shall be submitted to the court or the presiding judge thereof for approval.

41-9-205. Waiver of notice.

In case of failure to serve any notice of any proceeding or hearing in this chapter provided for, upon any person or corporation, such person or corporation, may appear in open court and waive such defect of service, or may waive it by filing in court or delivering to the commissioners of the drainage district to be filed in court a written waiver of such defect, in which waiver said defect shall be described; which waiver shall be signed by such party and witnessed and acknowledged before a proper officer having power to take acknowledgments of deeds.

41-9-206. Liberal construction.

The provisions of this act shall be liberally construed to promote the public health and welfare by reclaiming wet or overflowed lands, building embankments or levees and the preservation of any system of drainage heretofore constructed according to law.

41-9-210. Levels, surveys and maps to be made; report to court required.

As soon as may be after the confirmation of the said preliminary report, or within such time as the court may direct, said commissioners shall proceed to have all necessary levels taken and surveys made, and shall lay out said proposed work, make a map thereof and plans, profiles and other specifications thereof, and report in writing to the court.

41-9-211. Contents; starting points, routes and termini.

The commissioners shall report whether the starting point, routes and termini of the proposed work and the proposed location thereof, as in the petition contained, are in all respects proper and feasible, and, if not, shall report such as are most proper and feasible.

41-9-212. Contents; change of boundaries generally.

If it be found necessary to change the boundaries of said proposed district, as by them previously fixed, they shall report said proposed change, and, if possible, shall report the names, residence and post-office addresses of the owner or owners of all lands affected by said change in boundaries, but no such change in boundaries shall be made as to deprive the court of jurisdiction; provided, however, that if the owners of lands adjacent to the district petition to have their lands brought into the district such may be considered the same as original petitioners in making changes of boundaries.

41-9-213. Contents; assessment of damages.

The commissioners shall report what lands within the district will be injured by the proposed work, if any, and they shall therein award to each tract, lot, easement or interest by whomsoever held, the amount of damages which they shall determine will be caused to the same by the proposed work.

41-9-214. Contents; assessment of benefits.

The commissioners shall report what lands within the district will be benefited by the proposed work and they shall assess against each tract, lot and easement by whomever held the amount of benefits which they determine will be caused to the same by the proposed work. The benefits so assessed are herein referred to as "assessment of benefits".

41-9-215. Contents; cost of construction.

The commissioners shall also determine and report to the court the total amount, as near as they can determine, what said proposed work will cost, which cost shall include all incidental expenses, the reasonable cost of organizing said district, the costs of proceeding, and all probable damage to lands, both within and without the district, together with a reasonable sum for attorney fees for the petitioners, and such sum as the commissioners may deem necessary to provide for possible defaults and delinquencies in payment of assessments, which cost will hereinafter be referred to as "cost of construction".

41-9-216. Contents; assessments upon particular tracts, lots and corporations.

If the cost of construction of any particular part of the work so proposed to be done should be assessed upon any particular tract or tracts, lot or lots of land, or upon any corporation or corporations, the commissioners shall so specify, and in their report shall fix and determine the sums which should be assessed against said tracts, lots and corporations, and assess such sum against said tracts, lots and corporations.

41-9-217. Contents; assessments for construction generally.

They shall apportion and assess the part of this "cost of construction," not assessed as above, against the several benefited tracts, lots and easements in said drainage district, in proportion to the benefits which they have assessed against the same, by setting down opposite each tract, lot or easement, the sum which they assess against the same for construction. The assessments which together make up the cost of construction, as above defined, are herein referred to as "assessments for construction".

41-9-218. Contents; special benefits to corporations.

(a) If any corporation would, in the judgment of said commissioners, derive special benefits from the whole or any part of such proposed work, the commissioners shall so report and assess those benefits, and assess against the same its proportionate share of the costs of said proposed work. The word "corporation" wherever in this act contained, shall be construed to include:

- (i) Railroad companies;

- (ii) Other private corporations of all kinds;
- (iii) Towns;
- (iv) Cities;
- (v) Villages; and
- (vi) Other drainage districts.

41-9-219. Contents; costs of repairs.

The commissioners shall further report to the court the probable cost of keeping said proposed work in repair after it is completed.

41-9-220. Contents; maps and plans.

They shall include in their said report, said map, plans and other specifications, and file the same with their report.

41-9-221. Commissioners not to be confined to plans in petition.

The commissioners shall not be confined to the points of commencement, routes or termini of the drains or ditches, or the number, extent or size of the same, or the location, plan or extent of any levee, ditch or other work, as proposed by the petitioners, but shall locate, design, lay out and plan the same in such manner as to them shall seem best, to promote the public health or welfare, and to drain, or to protect the lands of the parties interested with the least damage and the greatest benefit to all lands affected thereby. And any plan proposed by the commissioners, may, on the application of any person interested, on the hearing hereinafter provided for, or on the application of the commissioners, be altered by the court, by written order, in such manner as shall appear to the court to be just.

41-9-222. Changing boundaries upon application to court; filing of report.

If the commissioners find that the proposed district, as described in the petition filed, will not embrace all of the lands that will be benefited by the proposed work, or that it will include lands that will not be benefited and are not necessary to be included in said district for any purpose, they

shall extend or contract the boundaries of the proposed district so as to include or exclude all such lands, as the case may be; and the boundaries adopted and reported by them, may, upon the hearing of their report, as hereinafter provided, upon their application, or that of any person interested, be altered by the court in such manner as shall appear to be just; provided, that the alteration of boundaries as aforesaid shall not have the effect of so far enlarging or contracting the proposed district as to render such petition void or dismissible. Said report shall be filed with the clerk of the court.

41-9-223. Notice of hearings on report; contents; order for hearing.

Upon the filing of said report, the court shall make and enter an order fixing the time and place when and where all persons interested may appear and remonstrate against the confirmation thereof, and the clerk of said court shall cause notice of the time and place of such hearing to be given to all parties interested, which notice shall contain a brief description of the lands benefited and damaged, together with the net damage awarded to the several tracts, parcels, easements and corporations to which damages are awarded, and the sum in each case assessed for construction against said several benefited parcels, tracts, easements and corporations.

41-9-224. Notice of hearings on report; publication and service generally.

Said notice shall be published for at least three (3) successive weeks, prior to the day set for the hearing in one (1) newspaper published in each county in which said lands, or any part thereof within said district are situate (and if no newspaper is published in said county, in some newspaper in an adjoining county), and by serving a copy of such notice on each of the persons or corporations, by said report recommended to be assessed, or whose lands are by said report recommended to be included in said district, and who resides in any of the counties out of which the proposed district is formed, at least twenty (20) days before the day of hearing in the same manner that a summons is required to be served; provided, absence from the county of such person or corporation shall excuse personal service, whereupon due publication of such notice shall be sufficient service.

41-9-225. Notice of hearings on report; when land situated in several counties.

In case the lands are situated in more than one (1) county the notice published in the county wherein the court having jurisdiction is situated shall contain a description of all the lands in said proposed district, the damages awarded to the several parcels thereof and amounts assessed for construction against the several parcels thereof, but the notice published in any other county or counties may contain a description of only the lands situate in said county for which said publication is made, together with the damages awarded to and assessments for construction against the several tracts, parcels, easements and interests situate in said county for which publication is made.

41-9-226. Notice of hearings on report; effect of personal service.

In case of service of said notice personally, or the acceptance and waiver thereof on all the owners of the lands within the district, said service shall be sufficient and give the court jurisdiction without said publication.

41-9-227. Hearings; modification of report generally.

If the court finds that the report requires modification the same may by order of the court be referred back to the commissioners, who may be required to modify it in any respect.

41-9-228. Hearings; confirmation order generally; appeal.

If there be no remonstrance, or if the finding be in favor of the validity of the proceedings, or after the report shall have been modified to conform to the findings, the court shall confirm the report and the order of confirmation shall be final and conclusive, the proposed work shall be established and authorized, and the proposed assessments approved and confirmed unless within thirty (30) days an appeal be taken to the supreme court, the said order of confirmation shall also fix the commissioners' bond.

41-9-229. Hearings; modification of combination order.

Said order of confirmation may, at the same or at any subsequent term of said court, be revised, modified or changed, in whole or in part, on petition of the commissioners, after such notice as the court may require, to parties adversely interested.

41-9-230. Hearings; supplemental report; amending original report.

At any time prior to making the order confirming said report or thereafter the court may permit the commissioners to present and file a supplemental report, or amend their report, as to any matter which, pursuant to the provisions hereof, was or might have been included in the original report presented by them, and after reasonable notice given to all parties interested, in such manner as the court shall direct, the court may, upon the hearing in said matter make such order as the case may require.

41-9-231. Judgment; entry when petition on proceedings dismissed.

(a) In case the petition or proceedings are dismissed as provided in W.S. 41-9-132, a judgment shall be entered against the petitioners and in favor of the commissioners for the costs, expenses, and liabilities incurred in said proceedings, but for the benefit of those who have rendered services or advanced money in the prosecution of said proceedings, or have recovered costs on successful contests therein.

(b) In case the proceedings are dismissed at any time, or the district is discontinued for any cause subsequent to the time provided in W.S. 41-9-132, a judgment shall be entered against the owners of all the lands then within the boundaries of said drainage district and in favor of the commissioners for all costs, expenses and liabilities incurred in said proceedings up to and including the time of said dismissal or said discontinuance, but for the benefit of those who have rendered service, or advanced money in connection with said drainage district, or have recovered costs on successful contests herein.

41-9-232. Judgment; filing of statement of costs; hearing.

Before any judgment is entered, said commissioners shall file with the clerk of the district court, in which said proceedings were instituted, an itemized statement of such costs and expenses, duly verified, upon which an order shall issue, requiring said petitioners to show cause before said court, at a time and place named, why judgment should not be entered against said petitioners for the amount of said costs and expenses. Notice of the hearing on said order to show cause, shall be given to said petitioners, by mailing to each a copy thereof, to their last known post-office address, at least twenty (20) days prior to the time set for hearing, and by publication of the

same in one (1) or more newspapers, published in the county, where the proceedings are pending, at least three (3) successive weeks prior to the day set for such hearing. Said notice need not contain an itemized statement of said account.

41-9-233. Judgment; contributions for payment prorated.

All petitioners shall, among themselves, contribute in the payment of said judgment, in proportion to the number of acres of land they have within the boundaries of the proposed district at the time of the filing of said petition.

41-9-240. Payment generally; unpaid assessments as liens; duty of clerk of court; state lands.

Unless otherwise provided by said order, such assessment shall be payable at once; and from the time of the entry of said order, assessments for construction of new work and additional assessments and interest thereon, shall be a lien upon the lands assessed, until paid. Any owner of land, or any corporation assessed for construction, may at any time within thirty (30) days after the confirmation of said report, pay into court, the amount of the assessment against his land or any tract thereof, or against any such corporation. Said payment shall relieve said lands from the lien of said assessment, and said corporation from all liability on said assessment. The clerk of said court shall collect no fees or commissions for collecting or disbursing such payments, and shall on demand of the commissioners of the district pay over to them all sums thus coming into his hands. Upon presentation to the state auditor of an order of the district court having jurisdiction of such drainage district, properly certified, the auditor shall draw his warrant on the treasurer on the common school account within the permanent land income fund in favor of the commissioners of such drainage district for the total amount that may be assessed against any lands included in such district, the title to which is in the state of Wyoming, and upon the payment of such warrants such lands shall thereby be relieved from the lien theretofore created for such costs of construction.

41-9-241. Payment in installments.

At the time of confirmation of any assessment provided for by chapter 76, Wyoming Compiled Statutes 1920, or acts amendatory thereof or supplemental thereto, it shall be competent for the court to order the same to be paid in installments of such amount and at such time as will be convenient for the

accomplishment of the purposes for which such assessment was made, and the payment of the principal and interest of such notes or bonds of said district as the court shall grant authority to issue, such installments to become delinquent on the same date or dates as may be fixed by law for state and county taxes to become delinquent, and such installments shall draw interest from the date of any notes or bonds issued by the district and for the payment of which said assessments are pledged, at such rate, not to exceed seven percent (7%) per annum, as may be fixed by the court.

41-9-242. Current expenses; annual budget generally.

Assessments to meet expenses of any current year of any district shall become due, payable and delinquent at such time or times each year as may be fixed by law for state and county taxes to become due, payable and delinquent. Commissioners having charge of any drain shall on or before the first Tuesday of June of each year file with the clerk of the court having jurisdiction of such district, a report showing an itemized estimate of the money to be raised by assessment within the district for the purpose of constructing new work, maintenance and to meet the yearly current expenses of the district. In addition to the amount above provided, the commissioners may add a sum which in their judgment shall be sufficient to provide for possible delinquencies. Within thirty (30) days after filing such annual report, at a time and place to be fixed by the court or a judge thereof, the judge shall examine such report, hear all objections thereto, fix and determine the amount to be raised by assessments for the current year and cause such adjudication to be entered of record in said court and a certified copy thereof to be delivered to the commissioners of such district. The commissioners shall add thereto such amount as may be necessary to meet the principal and interest on lawful indebtedness of the district maturing during the current year, together with a sum which in their judgment shall be sufficient to provide for possible delinquencies. When thus completed it shall be known as "The budget of Drainage District for the year (year)" and also be verified under oath by any one (1) of the commissioners.

41-9-243. Assessment roll generally.

It shall be the duty of the commissioners of each drainage district, on or before the first Monday of August of each year to prepare an assessment roll of said district, which shall contain the name of the owner, if known, together with a description of each lot, tract and easement of land within said

district, and the aggregate assessments of benefits confirmed by the court against the same; and the name of all corporations assessed, together with the aggregate assessment levied against such corporations respectively. The assessment roll shall also show the amount assessed against each lot, tract and easement of land, and against each corporation in the district, for current expense and to meet the principal and interest on the indebtedness of the district for the current year. All such assessments shall be apportioned on the aggregate assessment of benefits last confirmed by the court. When such assessment roll is completed it shall be signed by the commissioners of said district and verified by any one of them. On or before the first Monday in August, of each year the commissioners of the drainage district shall deliver to the county commissioners of the county having jurisdiction of such drainage district the assessment roll of such district. The county commissioners of said county immediately upon the receipt of the assessment roll of such district and at the time of making the requisite tax levy for county purposes, shall levy and assess against each lot, tract and easement of land and against each corporation, the respective amounts levied and assessed against the same on said assessment roll. Thereupon the county commissioners shall certify to and deliver said assessment roll to the county assessor of such county, and in case the territory embraced in such district is located in two (2) or more counties a copy of the assessment roll as certified to by the county commissioners of the county having jurisdiction of such district shall be delivered to the assessor of each county in which any of the land of the district is located. Upon receipt of such assessment roll the assessors of the counties embracing any of the lands of such district shall extend upon the tax roll of such county the respective amounts levied and assessed against each lot, tract and easement of land, and against each corporation as shown by said assessment roll of said district.

41-9-244. Certification procedure.

When the commissioners shall fail to certify to the county commissioners of the proper county, any one (1) or more drainage assessments for construction, reconstruction, enlargement, extension, improvement, or repair, against any lands in said district, at the proper time, they may certify the same to the county commissioners of the proper county at any time thereafter, whether in the same or any subsequent year, as an additional assessment roll of said district for the then current year, and upon receipt of such additional assessment roll by such county commissioners it shall be the duty of such

commissioners to make a levy therefor and to certify the same to the county assessor in the manner hereinbefore provided, and it shall then be the duty of the county assessor to add the said levy to the tax roll for the then current calendar year.

41-9-245. Additional assessments; generally.

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 principal of or 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 assessment shall be published at least once each week for three (3) consecutive weeks in one (1) newspaper published in each county in which said lands, or any part thereof, within said district are situated which further or additional assessments may be made payable in installments, as specified in W.S. 41-9-241, and shall be treated and collected in the same manner as the original assessments for construction confirmed by the court, in said drainage district.

41-9-246. Additional assessments; commissioner's petition; hearings; modification of budget.

The commissioners of any drainage district within the state of Wyoming shall not incur any indebtedness for current expenses of the district in excess of the amount provided in the budget: provided, however, in case a greater sum than that provided in the budget is required the commissioners may file a petition setting forth the causes therefor, with the clerk of the court having jurisdiction of said district. Immediately upon the filing of said petition the court shall make an order fixing the time and place of hearing and directing the form and manner of notice thereof to be given if the court deem such hearing advisable. If the court shall authorize the expenditure of a greater sum of money the commissioners shall be authorized to incur indebtedness equal to the amount of the additional sum authorized by the court, and in case the expenditure occurs at a time when it is too late to place the amount upon the assessment roll for the current year, such amounts may be added to the budget of ensuing years. All debts contracted in contravention of this section shall be void.

41-9-247. Omissions; generally.

Omission to assess benefits, or to assess for construction, or to make additional assessment, or to make assessment for repairs, or to award damages to any one (1) or more tracts of land or easements in a drainage district, or to assess benefits, or to assess for construction, or to assess for repairs, or to make additional assessments against any corporation which should have been assessed, shall neither affect the jurisdiction of the court to confirm the report nor to render the benefits assessed, or the assessments for construction, or additional assessments, or assessments for repairs against other lands, or assessments against any corporation voidable, but the commissioners of said drainage district shall thereafter, as soon as they discover the omission, or as soon as notice thereof, either agree with the omitted parties upon the proper assessments and award the damages or assess such benefits, make such assessments for construction and make such additional assessments against the omitted lands and corporations, and award such damages as shall be just, and report the facts, together with such assessments and awards, to the court.

41-9-248. Omissions; agreement between landowner and commissioners.

In case of omission to assess any corporation or land that should be assessed for benefits, or construction, or repair, or additional assessment, or to award damages, said omitted party and the owner of omitted land may in writing agree with the commissioners of said district what the assessment should be against said land, or against said corporation, or what said damages should be and such agreement shall be acknowledged and witnessed as provided above for waivers, and be filed in the court.

41-9-249. Application of state revenue laws; tax sale for delinquent assessments.

The revenue laws of this state for the collecting of taxes on real estate for county purposes, except as herein modified, shall be applicable for the purposes of this act, including the payment of interest and enforcement of penalties and forfeitures for delinquent taxes. All penalties and interest on assessments of a drainage district collected by the county treasurer shall be the property of such district, and all interest and penalties collected on assessments of such district levied for purposes

other than bonded indebtedness shall be paid to the treasurer of the district levying such assessment; such payments to be made on or before the fifth day of the month following the date of such collection. In advertising property for sale for delinquent taxes the county treasurer shall show in a separate column in such advertisement the amount of unpaid drainage assessment levied against each lot, tract and easement of land in said district. The county treasurer of any county in which any portion of the land of any drainage district is located, and at the time of advertising real property for sale for state and county taxes shall include in such advertisement, the amount of delinquent drainage assessments against each lot, tract or easement of land. At the time and place of sale of real property for state and county taxes the county treasurer shall also separately sell the land for delinquent drainage district assessments and shall issue separate certificates of sale therefor. In offering such real estate for sale for drainage assessments the county treasurer shall offer the entire tract assessed and the first bid received in an amount sufficient to pay such assessment, together with interest, penalty and costs, shall be accepted and treasurer shall not attempt to secure a higher bid. In case no purchaser appears to purchase the land offered for sale for delinquent drainage assessments the treasurer shall make an entry on his delinquent tax roll "Sold to Drainage District of County, Wyoming" and shall issue a certificate of purchase to such district. The owner of any tract, lot or easement of land in a drainage district shall have the right to redeem the said land at any time within eighteen (18) months from the date of sale thereof by the county treasurer as shown on said certificate by paying therefor the amount for which said land was sold by the county treasurer, together with such penalties and interest as may be provided by law relative to sales of land for delinquent state and county taxes, and in case the owner of any lot, tract or easement of land in any district shall fail to redeem said land from said sale for drainage assessment, the county treasurer shall issue a deed therefor to the purchaser at said sale, his heirs or assigns. The drainage district purchasing such land at said sale shall have all the right of natural persons in regard to owning, holding and selling such certificate and including the receipt of a deed, holding the title to real estate and selling and disposing of the same. The commissioners shall in no case sell said land or certificate of purchase for an amount less than the amount for which said land was sold to said district, including interest thereon, unless authorized so to do by the court. The procedure for the issuing of the deed, including the form of the deed, time of publication and service of notice of intention to

apply for deed, shall be the same as is now or may hereafter be provided by law for the issuances of tax deeds by the county treasurer upon the sale of land for state and county taxes, except as herein modified.

41-9-250. Objections; landowners to show cause; presumption of validity of assessments.

Any owner of land, or any interest in land, within a drainage district, who claims that his land in said district is exempt from liability for, or lien of any assessment for construction or repairs, or any additional assessment by said commissioners levied against the same whether said assessments be the first or any subsequent assessment or questions the legality of such assessment, may at any time, on ten (10) days notice, or order to show cause, be brought before the court having jurisdiction and required to show cause why said land should not be bound by all drainage district assessments in any report or reports of the commissioners of said district assessed against the same. The presumption shall be in favor of the regularity of such assessments, and they shall stand as valid assessments unless the owner of such land, or some interest therein shall show that said assessment is inequitable, or is void because the lands were not subject to assessment in the first instance.

41-9-251. Objections; statement of owner; default; decrees; appeal; adjournment of hearing; trial.

On the return day of said notice, or order to show cause, the said owner shall in writing, verified on oath, state the facts on which his claim is based. If he fails to appear and set forth such facts, upon the filing of the proof of service of such notice, or order to show cause upon him when notice is necessary, an order shall be made by the court confirming such assessment or assessments, which order shall be final and conclusive unless appealed from to the supreme court within thirty (30) days. The court may adjourn the hearing on said return day and thereafter, and if on the return day, or adjourned day, a trial is found necessary, the court shall fix the time and place of trial, and frame all necessary issues as provided in W.S. 41-9-104.

41-9-252. Objections; procedure when assessments declared void.

In case the court decides that such lands could not, at the time said assessment or assessments were made, be assessed for

drainage purposes, and that said assessment or assessments, are void, the commissioner shall levy an additional assessment on all of the assessable lands and corporations in said district based on the last assessment of benefits approved by the court, to pay the sum lost to the district by reason of the void assessment, or shall pay said sum out of the general funds of the district.

41-9-253. Assessments as liens generally.

All assessment provided for in chapter 76, Wyoming Compiled Statutes 1920, and acts amendatory thereto and supplemental thereof, together with all interest thereon, and all penalties for default in the payment of same, and all costs of collecting the same shall, from the date of the order of court confirming such assessments until paid, constitute a perpetual lien in amount not in excess of the benefits severally assessed, upon all the land and other property against which such assessments shall be levied, as provided in this act, to which only the lien of the state for general state, county, city, town or school taxes, shall be paramount, and no sale of such property to enforce any general state, county, municipal, or school tax, or other lien shall extinguish the lien of such assessments.

41-9-254. Assessment as court judgment.

Each and every sum assessed for construction, for additional assessment or for repairs against any land or against any corporation, as soon as such assessment is confirmed by the court, shall be and is declared to be a judgment of the district court in favor of said drainage district and against said land or corporation, and unless some other method of collection is herein provided, shall be collected in the same manner as any other money judgment is collected, provided that whenever said assessment is a lien upon land it shall only be collected out of said land on which it is a lien.

41-9-255. Conclusiveness of order; appeals generally.

The collection of any assessments made by the commissioners for construction and confirmed by the court, shall not be restrained or obstructed by reason of any omission, imperfection or defect in the organization of any district or in any proceedings occurring prior to the order confirming the assessments of benefits, but such order shall be conclusive as to the regularity of all proceedings relating to the assessments

of the benefits unless appealed from within thirty (30) days after the entry of such order.

41-9-256. Notes and bonds generally.

(a) The commissioners may borrow money, not exceeding the amount of assessment for construction, additional assessments and assessments for repairs, reconstruction, enlargement, extension and improvement, unpaid at the time of borrowing for the construction, repair, reconstruction, enlargement, extension or improvement of a work which they shall be authorized to construct, repair, reconstruct, enlarge, extend or improve, or for the payment of indebtedness they may have lawfully incurred, and may secure the same by notes or bonds, bearing interest and not running beyond one (1) year after the last installment of the assessment, on the account of which the money is borrowed, shall fall due, which notes or bonds shall not be sold at less than ninety percent (90%) of their face value, which bonds are transferable by delivery to the same extent as negotiable paper of the highest character. The notes or bonds shall not be held to make the commissioners personally liable, but shall be held to be the lawful indebtedness of the district and constitute a lien upon the assessments for the repayment of the principal and interest of the notes or bonds.

(b) In case any monies derived from bonds sold to pay for the original construction of said drainage system, or for the reconstruction, enlargement, extension or improvement thereof, now or hereafter, remains on hand after such work is completed and paid for, and not raised for damages unpaid for, such residue may be used in maintenance and repair work, as in this act provided before making assessments for such maintenance and repair.

41-9-257. Refunding of indebtedness.

The court may, upon the petition of the commissioners, authorize them to refund any lawful indebtedness of the district now existing or which may hereafter be incurred by taking up and canceling all or a part of its outstanding notes and bonds, as fast as they become due or before, if the holders thereof will surrender the same, and issue in lieu thereof new notes or bonds of the district, payable in a time as the court deems proper, in an amount sufficient to retire all notes and bonds of the district then outstanding and the unpaid accrued interest thereon, together with an amount as the commissioners of the district deem necessary to provide for possible future defaults

and delinquencies in the payment of assessments. For the purpose of providing funds to pay the refunding bonds with interest thereon, the commissioners may levy assessments against the land in the district, but not in excess of the benefits assessed. In the alternative the commissioners may, if they deem it advisable, issue refunding bonds in an amount sufficient only to retire all notes and bonds of the district then outstanding and the unpaid accrued interest thereon, and may, if they desire to provide a fund to provide for possible defaults and delinquencies in the payment of assessments, levy from year to year assessments against the land in the district for these purposes, but not in excess of the benefits assessed against the same.

41-9-258. Effect of change in assessments upon existing bonds.

No bonds or other obligations issued by any drainage district shall be adversely affected by any subsequent change in assessments of benefits.

41-9-259. Collection generally.

All drainage assessments shall be collected by the same officer and in the same manner and at the same time as state and county taxes are collected and when collected shall be paid to the treasurer of the district, except such assessments, together with interest, penalty and costs thereon, as are collected upon assessments levied for the payment of principal and interest of bonded indebtedness of said district, which funds shall be retained by the county treasurer of the county in which such district is organized, and the principal and interest of all bonded indebtedness of such district shall be paid by such county treasurer from such fund, at the place of payment designated in said bonds and interest coupons; provided, that when all bonded indebtedness of any drainage district is fully paid and retired such funds remaining in the hands of the county treasurer shall be paid to the treasurer of such district, for the use of the district. The commissioners of any drainage district may elect the treasurer of the county having jurisdiction of such district treasurer of such district.

41-9-260. Bidding procedure when cost over \$500.00.

In all cases where the work to be done at any one time under the direction of the commissioners shall, in their opinion, cost to exceed five hundred dollars (\$500.00), the same shall be let to

the lowest responsible bidder, and the commissioner shall advertise for sealed bids, by notice published in some newspaper published in the county in which the petition is filed, and may advertise in one (1) or more newspapers published elsewhere. If there be no newspaper published in the county in which the petition is filed, they shall advertise in some newspaper published in an adjoining county, which said notice shall particularly set forth the time and place when and where the bids advertised will be opened, the kind of work to be let and the terms of payment. Said commissioners may continue the letting from time to time, if in their judgment the same shall be necessary, and shall reserve the right to reject any and all bids.

41-9-261. Commissioners not to have financial interest in construction contracts.

(a) While in office no commissioner shall be interested directly or indirectly:

(i) In any contract for the construction of any drain, ditch, levee or other work in a drainage district;

(ii) In the sale of materials used for any work in a drainage district; or

(iii) In the wages of or supplies for men or teams employed on any work in a drainage district.

41-9-262. Entry of commissioners on land; payment of damages to owner.

The damages allowed to the owners of lands shall be paid or tendered before the commissioners shall be authorized to enter upon the lands, for damage to which the award is made, for the construction of any drains, ditches or levees proposed thereon. If the owner is unknown or there shall be a contest in regard to the ownership of the lands, or the owner will not receive payment, or there exists a mortgage or other lien against the same, or the commissioners cannot for any other reason pay him, they may deposit the said damages with the clerk of the court, for the benefit of the owner, or parties interested, to be paid or distributed as the court shall direct, and such payment shall have the same effect as the tender to and acceptance of the damages awarded by the true owner of the land. This section shall not, however, prevent said commissioners, their agents, servants and employees going upon said lands to do any and all

work found necessary prior to making their assessment of benefits and award of damages, and the trial on their report thereof.

41-9-263. Location of drains.

When practicable said drains herein provided for shall be laid out and constructed on the side of public highways.

41-9-264. Drained lands outside of district; commissioners' report requesting assessments.

Whenever any drained lands outside a drainage district are receiving the benefits of the drains of said district, by direct or indirect, natural or artificial connection therewith, the commissioners of said district may report said facts to the court and ask that said lands, describing them, be brought into said district and assessed for the benefits by them received from the drains, ditches or levees of said district.

41-9-265. Drained lands outside of district; court order to landowners to show cause.

Upon the filing of said report the court shall order the owners of such lands to be notified of the filing of said report and the contents thereof, and shall require such owners to show cause at a time and place therein fixed, not less than twenty (20) days thereafter, why their said lands should not be brought into said district and assessed for said benefits.

41-9-266. Drained lands outside of district; hearings; remonstrances; trial on issues.

At the time and place fixed for hearing said report any of said landowners may appear and remonstrate against the confirmation of said report. All remonstrances shall be in writing, verified and shall set forth the facts on which they are based. All issues arising on said report shall be tried by the court without a jury.

41-9-267. Drained lands outside of district; hearings; findings; annexation to district.

If the court shall find that said lands or any of them are receiving the benefits of any such drain, ditch or levee, the court shall so find in writing and shall order said lands to be

annexed to and made a part of said district and benefits to be assessed against the same by the commissioners of said district.

41-9-268. Drained lands outside of district; effect of court order; appeal.

Said order shall be final and conclusive unless appealed from the supreme court within thirty (30) days from the date of entry thereof.

41-9-269. Drained lands outside of district; levy of assessments by commissioners.

Said commissioners shall, after the time for appeal is past, assess against each parcel, tract and easement of and in said annexed lands reasonable and just benefits, and shall assess against said lands for construction and repairs such sum as shall be just. If lands similarly situated and benefited are found in said district the annexed lands shall be assessed a like sum of benefits and damages as said lands in the said district to which they are sought to be annexed, and a sum for construction of said work which shall be equal to all sums assessed for the complete construction of the drainage system in the district to which they are sought to be annexed against lands having the same assessment of benefits in said district.

41-9-270. Drained lands outside of district; filing of commissioners' assessment report; hearing; trial; amendment or confirmation of report.

The commissioners shall file their said report and assessments in court. The court shall by order require said owners to show cause at a time and place therein fixed, not less than twenty (20) days after the service of said order, why said report and assessments should not be confirmed. And on the hearing on said order to show cause if a jury trial is demanded the court shall frame issues on benefits and damages and empanel a jury or adjourn the hearing thereon until a jury is in attendance and take the verdict of a jury on such issues. All other issues arising on said report shall be tried by the court. The court shall order all necessary amendments of said report and make written findings of fact and when said report is amended shall by order confirm the same.

41-9-271. Drains across railroad rights-of-way; generally.

Said commissioners shall have the right to lay out and construct all necessary drains, ditches and levees across any railway right-of-way or yards in their district, and any railway company, whose right-of-way or yards crosses the line of any proposed drain, ditch or levee, shall open its right-of-way or yards and permit such drain, ditch or levee to cross the same, as soon as said drain, ditch or levee is constructed to such right-of-way.

41-9-272. Drains across railroad rights-of-way; liability of district to railroad.

Every drainage district shall be liable to the railway company, whose right-of-way or yard any of its drains, ditches or levees crosses, for the reasonable cost of the culverts and bridges, made necessary by said drain, ditch or levee, crossing said right-of-way or yards, but of not more expensive character than the average other culverts and bridges on said division of railway, crossing streams or ditches of approximately the same width and depth, and within a hundred (100) miles of said district ditches.

41-9-273. Drains across railroad rights-of-way; railroads to grant free access; failure to comply.

Upon receiving fifteen (15) days notice in writing, any railway company, across whose right-of-way or yard any such drain, ditch or levee is laid out shall open its right-of-way or yards, and permit said commissioners and their contractors, agents and employes to construct said drain, ditch or levee, across said right-of-way or yards. For every day that said railroad company fails, after the end of said fifteen (15) days, to open their said right-of-way or yard, as hereinbefore required, it shall forfeit twenty-five dollars (\$25.00) to said drainage district, to be collected in an action, as other forfeitures are collected, or set off against any damages that have been awarded to such company. If said railway company fails to open its right-of-way or yard along the line of said drainage district, drain, ditch or levee, the commissioners may, at any time after the expiration of said fifteen (15) days, open such right-of-way and yard along the line of said drains, ditches and levees, and construct the same.

41-9-274. Petition for reconstruction, enlargement, extension or improvement; filing by commissioners; contents.

(a) If, after the completion of work on any drainage system under the provisions of this act, it shall become necessary to reconstruct, enlarge, extend or improve the said system in order to protect or reclaim any part of the district from waste or seepage water, the commissioners of said district may file in the court, in which the original proceedings were had, a petition setting forth:

(i) The necessity for the proposed work describing the necessity;

(ii) A general description of the proposed work;

(iii) A general description of the starting point routes and termini of any new ditches, drains, levees or other work proposed to be constructed;

(iv) The names of owners of all lands through or over which any such ditch, drain, levee or other work is proposed to be constructed, so far as such names are known to the petitioners;

(v) That the proposed work will promote public health and welfare;

(vi) That the total benefit from the proposed work will exceed the cost, together with the damages resulting therefrom, taking into consideration all benefits and all damages resulting therefrom both within and without said district;

(vii) A prayer that the commissioners be authorized to proceed with the proposed work.

41-9-275. Petition for construction; filing by landowners in lieu of commissioners.

If, in any such case, the commissioners fail or refuse to file such petition, the same may with like effect be signed and filed by not less than fifty percent (50%) of the owners of land within the district, or by the owners representing not less than fifty percent (50%) in area of the lands therein.

41-9-276. Petition; hearing procedures generally.

Upon the filing of such petition like proceedings shall be had as in the case of the filing of the preliminary report of the

commissioners, except that the boundaries and organization of the district shall in no way be affected by the proceeding and except that in the notice of hearing shall state the names of the owners of lands over or through which any ditch, drain, levee or other work is proposed to be constructed as stated in the petition, which owners shall be served with said notice as provided for serving of notice of hearing on the petition for organization of the district and if the petition is filed by landowners, the commissioners also shall be served with notice in like manner.

41-9-277. Petition; procedure when petition granted.

If, upon the hearing, the prayer of the petition shall be granted, like proceedings shall be had in all respects as in case of the confirmation of the preliminary report of the commissioners, except that the boundaries and organizations of the district shall not be affected by the proceedings and any costs taxed against the petitioners therein shall be paid by the district, if the petition was filed by the commissioners. If, upon the hearing of the final report of the commissioners, the proposed work or any part thereof is by the court ordered to be done, all subsequent proceedings with respect to the doing thereof and the payment therefor shall be governed by the provisions of the statute applicable in cases of original construction work.

41-9-278. Petition; assessments.

In making their assessments of benefits and for the work to be done under the provisions of this amendment, the commissioners shall regard the proposed work as an integral part of an entire system, and shall take into consideration all assessments of benefits and for construction previously made, in order that, insofar as practicable, no part of the district shall bear an unjust portion of the total cost of the entire system.

ARTICLE 3 - DIVISION

41-9-301. Authorized.

Any drainage district now or hereafter organized under the provisions of chapter 76, Wyoming Compiled Statutes, 1920 and acts amendatory thereof and supplemental thereto, may be divided into two (2) or more districts in the manner provided in this chapter.

41-9-302. Contents of petition.

(a) Whenever a majority of the adult owners of lands within any portion of an organized drainage district, who shall represent more than one-half in area of the lands within said portion which it is proposed shall be cut off and divided from the drainage district as organized, desire to effect such division, they may file in the district court of the county having jurisdiction over the original district, a petition setting forth:

(i) The proposed name of the new drainage district to be formed by such division;

(ii) The necessity of the proposed work, if any, and the necessity and reasons for division, describing the same;

(iii) A general description of the proposed starting points, routes and termini of the proposed drains, ditches and laterals;

(iv) A general description of the lands proposed to be included in said district;

(v) The names of the owners of all lands in said proposed district, when known;

(vi) The names of the owners of all other lands in the district proposed to be divided, when known;

(vii) A detailed statement of the existing indebtedness of the original drainage district and the proposed apportionment of said indebtedness as between the remaining portion of the original district and the proposed new district based upon the assessments for benefits against the lands contained therein, as last confirmed by the court.

(b) If the purpose of said petition, in addition to a division of the district, is the enlargement, repair and maintenance of a ditch, or other work heretofore constructed under any law of the state, said petition shall give the general description of the same, with such particulars as may be deemed important.

(c) Said petition shall pray for the organization of a drainage district by name, and with the boundaries proposed, and for the appointment of commissioners for the execution of any

proposed work according to the general provisions of chapter 76, Wyoming Compiled Statutes, 1920, as amended.

41-9-303. Order for hearing on petition; notice generally.

(a) On such petition being filed, the court or judge thereof shall make an order fixing the time and place for a hearing thereon, and ordering notice; thereupon the clerk of said court shall cause twenty (20) days notice of the filing of said petition to be given:

(i) By posting notice thereof in at least five (5) public places in said proposed new district, and in at least five (5) public places in the remainder of the district proposed to be divided;

(ii) By serving or causing to be served a copy of such notice on each owner of land within said district, proposed to be divided, either personally or by registered mail to his last known address at least twenty (20) days prior to the hearing; and by serving in like manner a similar notice on each of the commissioners of the drainage district proposed to be divided; and

(iii) By publishing a notice thereof at least once a week for three (3) successive weeks in some newspaper published in the county in which any part of the district is located. If there be no newspaper in any such county, such notice shall be published in a newspaper published in the adjoining county nearest the land in said district.

(b) Such notice shall state:

(i) In what court said petition is filed;

(ii) A brief description of any proposed new work, with the starting points, routes and termini of new drains and ditches;

(iii) The boundaries of the proposed district;

(iv) The name proposed for such district;

(v) The proposed apportionment of the existing indebtedness as between the remaining portion of the original district and said proposed new district;

(vi) The time and place as fixed by the court for the hearing on said petition.

41-9-304. Manner of service.

Service of said notice, and proof of service thereof, shall be made in the same manner as is now provided by law in the case of the organization of new districts under chapter 76, Wyoming Compiled Statutes, 1920, as amended.

41-9-305. Hearing.

Upon the day fixed for the hearing on such petition, all parties owning lands, or any interest or easement in land, within said district, proposed to be divided, or whomsoever would be affected thereby, or the commissioners of the original district, may appear and contest the granting of said petition on the grounds that said proposed division will not serve the best interests of all parties interested, and the grounds specified in W.S. 41-9-111.

41-9-306. Court order; creation of new district as corporate entity; apportionment of indebtedness; proration of maintenance expenses of existing works in both districts.

If it shall appear to the court upon said hearing that the requisite number of signers appear on said petition, as required herein; that due and proper service has been had upon all parties interested as herein provided; and that the best interests of all parties interested will be served by the proposed division, he shall so find, and enter an order creating said new district, appointing commissioners therefor, apportioning the indebtedness of the original district as between the remaining portion of the original district and the proposed new district organized therefrom based upon the assessments for benefits last confirmed by the court against the lands embraced in each, and determining the proportionate amount, if any, of the annual operation and maintenance expense the new district shall bear of and for maintaining the drainage system constructed by the original district, and thereupon such new drainage district shall be, and thereby declared to be organized as an independent drainage district by the name fixed by court, with the boundaries as therein fixed, and with the indebtedness as apportioned to it, to be a body corporate, with the right to sue and be sued, adopt a corporate seal, and have perpetual succession the same as if organized as an original drainage district under the statute in such case provided;

provided, however, that no such order shall be effective for the apportionment of indebtedness as herein provided unless and until the owners and holders of the evidences of indebtedness against the original district, whether bonds or otherwise, shall have filed in said court a written consent and approval of the apportionment thereof, as made by the court.

ARTICLE 4 - JOINT OPERATION WITH MUNICIPALITIES

41-9-401. Agreement generally; apportionment of maintenance expenses; municipal assessments generally.

Whenever any incorporated town, city or village lies in whole or in part within the boundaries of any drainage district now organized, or which may hereafter be organized in the state of Wyoming, the commissioners of said district may enter into an agreement with said town, city or village under the terms of which said agreement, said town, city or village may agree to operate, maintain, repair or extend any drainage works lying wholly or in part within said town, city or village; and when such agreement has been entered into, said drainage district shall be relieved from the expense of operation, maintenance, extension or repairs of such drains except where any portion of the district discharges its water through the outlets diverted through said town, city or village in which case the drainage district shall assist in maintaining the said drain on a basis of land drained into said drain and said town, city or village and the individual freeholders within said town, city or village shall be relieved from the payment of assessments for operation, maintenance, repairs or extension levied by said drainage district during the life of said agreement. Such town, city or village shall thereafter levy each year, as a part of its assessment for city purposes, such amount as shall be found necessary to operate, maintain, extend or repair said drains in the same manner as is now provided for assessments for sewerage; provided, however, that any drain lying partly within said town, city or village and partly without may, by agreement between said commissioners by and with the consent of the bondholders and said town, city or village, be jointly maintained by the parties to such agreement.

41-9-402. Assessments for bond principal and interest; levy and collection.

The commissioners of said drainage district, the holders of any bond or bonds of the said district and the authorities of any such town, city or village shall also enter into an agreement

whereby all assessments for bond principal and interest shall be collected by such town, city or village in the same manner as is now provided by law for the collection of sewerage taxes. Upon such agreement being reached, the commissioners and bondholders of such drainage district shall furnish to said town, city or village a roll showing the lots, tracts or parcels of land within said town, city or village assessed for drainage, the assessment for benefits thereon and the assessment for construction thereon. Said town, city or village shall thereupon proceed to levy and collect such amounts as may be necessary for the payment of said assessment for construction in the same manner as is now provided by law for the levy and collection of sewerage assessments, and shall remit payments to the bondholders entitled to receive such payments upon such drainage bonds semi-annually upon the first day of January and the first day of July of each year.

41-9-403. Mill levy and indebtedness of town not to be affected.

The provisions in this act contained for levy, assessment and collection of drainage taxes shall not limit the mill levy of said town, city or village and the portion of said bonded debt of said drainage district assumed for collection by said town, city or village shall not be counted as a portion of the town's indebtedness when computing whether or not the debt limit of said town, city or village has been reached.

ARTICLE 5 - CONTRACTS WITH UNITED STATES

41-9-501. Qualifications of districts as prerequisites to contracting.

Except as otherwise provided in this act, drainage districts organized under the provisions of chapter 76, Wyoming Compiled Statutes, 1920, and contracting with the United States under authority of this act, shall be organized, administered and have the same powers, duties and obligations as provided for in said chapter 76, Wyoming Compiled Statutes, 1920 and all acts amendatory thereof or supplementary thereto.

41-9-502. When district authorized to enter into contract.

Any drainage district organized under the provisions of chapter 76, Wyoming Compiled Statutes, 1920, and all acts amendatory thereof or supplementary thereto, through its commissioners, shall have power to enter into contracts with the United States

for the construction, operation and maintenance of any drainage or other works authorized to be done under the provisions of said statutes and authorized under any act of congress heretofore or hereafter enacted, providing for or permitting such a contract on the part of the United States, after said contract has been first submitted to the qualified electors of said district at an election held for that purpose, and at which a majority of the qualified electors present and voting has voted in favor of making such a contract.

41-9-503. Securing of district indebtedness due to contract.

The commissioners may secure the indebtedness incurred by the district in such contract as provided for in W.S. 41-9-502, by issuing bonds of the district in such form, terms and denominations as may be fixed by the secretary of the interior in carrying out the provisions of any act of congress heretofore or hereafter enacted providing for or permitting such a contract on the part of the United States and the acceptance and deposit or sale of bonds of the district by the United States; said bonds may be delivered to the United States and held by it or, when deemed desirable or when the appraised value of the land in the district is double the bonded indebtedness, sold by the United States, and the net proceeds received from the sale of said bonds applied to the liquidation of the contract indebtedness of the district to the United States.

41-9-504. Unentered public lands as majority of district; appointment of commissioners; term; removal; subsequent appointment or election.

When a majority of the lands within the district are unentered public lands, a majority of the commissioners of the district, who shall be residents of the state, may be appointed by the secretary of the interior, and shall be subject to removal from office by him and any vacancy so created may be filled by further appointment by the secretary of the interior. Commissioners thus appointed by the secretary of the interior shall hold office until such time that the unentered public lands within the district constitute a minority of the total area, after which they shall be appointed or elected as otherwise provided by this chapter 76, Wyoming Compiled Statutes, 1920, and all acts amendatory thereof or supplementary thereto; if a majority of the commissioners of the district are so appointed by the secretary of the interior, then the remaining commissioners shall be appointed or elected at large

within the entire drainage district for terms of two (2) years each, which terms, however, shall be limited to and expire on the first Tuesday in July next following the date when the unentered public lands within the district constitute less than a majority of the total acreage within the district, after which the commissioners shall be appointed or elected in the same manner and for the same terms as provided for in the case of first appointment or election of commissioners under the said statutes.

ARTICLE 6 - DISSOLUTION

41-9-601. Petition of landowners.

When the commissioners of a drainage district by unanimous vote of the total membership thereof shall determine to call an election or whenever a majority of the landowners in any drainage district in this state, who shall represent one-half of the ownership of the lands theretofore assessed for benefits and construction within said drainage district, shall file with the commissioners of such district a petition praying for the dissolution thereof, it shall be the duty of the commissioners of such district to forthwith call an election of all of the landowners of said district to determine whether or not such district shall be dissolved.

41-9-602. Election; notice.

Notice of such election shall be published for four (4) successive weeks in one (1) or more newspapers published in each county in which any portion of the lands embraced within such district is situated, stating the time and place of said election and the object thereof, and in addition thereto, the commissioners of said district shall give the same notice as is required in case of annual elections in drainage districts.

41-9-603. Election; conduct; certification of result; report of district indebtedness.

If at any such election which shall be conducted in the same manner as is now provided by law for the conduct of annual elections in drainage districts, a majority of all of the qualified voters owning a majority in acreage of the lands assessed for benefits in the district, shall be in favor of the dissolution of such district, the commissioners of such district shall forthwith certify to the district court having jurisdiction of such district the result of such election, and

at the same time shall report to the court the amount and character of the then existing indebtedness of the district. In the event the question of the dissolution of such district does not carry at such election the question shall not again be raised for a period of one (1) year from the date of such election.

41-9-604. Order for hearing on results of election; generally.

Upon the filing of the commissioners' report and return of election, an order shall be made and entered by the court fixing the time and place for a hearing thereon, at which time and place all creditors and other persons interested may appear and show cause why said district should not be dissolved.

41-9-605. Election hearing results; publication.

A copy of such order to show cause shall be published for four (4) successive weeks prior to said hearing in a newspaper published in each county in which lands embraced in said district be situated.

41-9-606. Hearing; final settlement.

Upon said hearing, the court must find, on the evidence submitted, if the district be ordered dissolved, that the best interests of all parties interested shall be served by the proposed dissolution, and shall determine the amount of the existing indebtedness of such district, if any, and shall make an order requiring the payment of the same. Upon the filing by the commissioners of proper receipts, showing payment of all indebtedness against the district, the court shall thereupon make a final order dissolving the district, and in said order the court may provide for a receiver who shall have full authority to collect and distribute any assets or property formerly belonging to said district, who shall be guided by and shall comply with the provisions of W.S. 1-33-101 through 1-33-110, and the amendments thereof in the performance of his duties.

CHAPTER 10 - WATER AND SEWER DISTRICT LAW

41-10-101. Definitions.

(a) As used in this act the following words or phrases shall be defined as follows: