

BILL

No. 11 of 1923.

An Act to amend The Drainage Districts Act, 1921.

(Assented to _____, 1923.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Drainage Districts Act, 1921, Amendment Act, 1923.*"

2. Section 12 of *The Drainage Districts Act, 1921*, being chapter 46 of the Revised Statutes of Alberta, 1922, is amended as to subsection (2) thereof by striking out all words after the words "character of the lands affected thereby," and substituting therefor the following: "and

3. Sub-section 14 of the said Act is hereby repealed, and the following substituted therefor:

"14. (1) If the Minister, owing to the receipt of a substantial objection to the formation of the proposed district or for any other good reason determines not to proceed with the proposed work or if the statement of the result of the election made by the returning officer under the provisions of part II of this Act shows that less than two-thirds of the persons voting were in favour of the formation of the district then the Minister shall with respect to each municipality concerned prepare a list of the names of each person who signed the said petition and of the lands owned by him at the time of affixing his signature to the petition, and lying within the drainage district as proposed in the petition and also a statement of the amount of the portion of all disbursements and expenses incurred in and about the investigation of the engineer, his report and other services in respect thereof properly attributable to the said land on an acreage basis, and shall forward such list to the Secretary of each municipality concerned.

"(2) The amounts set out in the said list shall form a part of the municipal taxes and shall be collected in the same way and the payment thereof shall be enforced by the like remedies.

"(3) Any sums of money so collected shall be immediately forwarded to the Minister less one per cent. thereof.

"(4) Any amount charged under the provisions of Sub-section (1) of this Section against any municipality shall constitute a debt due from such municipality to the Minister."

accordance with the plans of the works of the district which have been submitted to the Minister, or any such plans as subsequently varied or altered in accordance with the provisions of this Act,

and for that purpose shall have power to enter upon any land, and in so doing shall have all such powers as are conferred upon the Minister of Public Works in respect of entry upon land required for public works and shall have every power necessary for the construction, maintenance or renewal of the drainage work necessary for the use of the district."

5. Section 20 of the said Act is amended by striking out subsection (2) thereof, and substituting therefor the following:

"(2) Any amounts so borrowed shall be paid out of the irrigation rates for the year in which they were borrowed and shall, after payment of the amounts falling due to the debenture holders in or prior to that year, be a first charge thereon and the said person, bank or corporation shall, in respect of any such money used to discharge any portion of the debenture indebtedness of the district, have the same right to priority in repayment thereof as the debenture holders would have had in respect of the indebtedness discharged thereby."

6. Section 22 of the said Act is hereby repealed.

6. Section 25 of the said Act is hereby repealed, and the following substituted therefor:

"25.—(1) Save as in subsections (2), (3), (4) and (5) of this section is otherwise expressed, every board of trustees and the works and other property, real or personal, of any such board shall be exempt from every tax, levy, rate or impost imposed by the Province, or any municipality, school board or other public authority whatsoever.

"(2) The council of any municipality, or the Department of Municipal Affairs may tax the land occupied by the works of a drainage district at a flat rate per acre not exceeding *ten cents* for general municipal purposes or improvement district purposes, as the case may be.

"(3) The board of trustees of any school district may tax the works of a drainage district at a flat rate per acre not exceeding twenty cents ~~per acre~~ for school purposes.

"(4) If the board of trustees fails to repay any sum of money expended by an inspector in the destruction of noxious weeds, which it is required to pay by *The Noxious Weeds Act*, such sum of money may be recovered as if it formed part of a municipal tax lawfully levied upon the said board.

"(5) Notwithstanding anything in this section contained lands which have become vested in the board owing to non-payment of the rates levied thereon shall continue to be assessed for and liable to the payment of municipal taxes."

if owned by the Board thereof

the lands occupied by the works of any drainage district, if owned by the Board thereof

7. Section 25a is added to the said Act as follows:

"25a. The board shall before the first day of March forward to the secretary of every municipality, or in the case of an improvement district to the Department of Municipal Affairs and to the secretary of every school district, any part of which is situated within the district, a statement of the acreage of the land occupied by the works of the district, together with a cheque for the amount of the taxes imposed in respect thereof."

and owned by the Board thereof

8. Sections 28a, 28b and 28c are added to the said Act as follows:

"28a. The secretary shall at least two weeks prior to the last day of January in each year cause to be posted up in at least five conspicuous places in the district a notice of the annual meeting of the ratepayers, in the following form:

"NOTICE.

"Public notice is hereby given that a meeting of the ratepayers of the . . . Drainage District will be held at (description of place) on the (here fill in the date in January on which it is intended to hold the meeting) day of January, 19. . . , at. . . o'clock. . . for the purpose of receiving the auditor's report of the finances of the district up to the preceding thirty-first day of December, and for the purpose of receiving the reports of the trustees of the district.

"Dated at. . . this. . . day of . . . , 19.

Secretary.

(2) Such notice shall be posted at least seven clear days before the date fixed for such meeting.

"28b. At the time and place set out in the notice mentioned in the next preceding section, the trustees of the district, and the secretary, shall attend and submit to the meeting their respective reports for the year ending on the thirty-first day of December.

"28c. If the board deems it desirable it may provide for holding several meetings of ratepayers in lieu of one general meeting."

9. Section 29 of the said Act is amended as to subsection (6) thereof—

- (a) by striking out the word "December" where it occurs for the first time therein, and substituting therefor the word "February";
- (b) by striking out the words "thirty-first day of December," and substituting therefor the words "last day of February."

~~10.~~ Section 31 of the said Act is amended as to subsection (1) thereof by striking out the words "first week of December," and substituting therefor the words "last week of February."

~~11.~~ Section 33 of the said Act is amended as to subsection (8) thereof by striking out the words "of assessment" where they occur therein.

~~12.~~ Section 42a is added to the said Act as follows:

"~~42a.~~ At any time before the issue of the said debentures the trustees may, with the consent of the Minister and without submitting the same to the voters, pass a by-law altering the terms of repayment of the debentures and decreasing the rate of interest payable thereon and providing a corresponding change in the amounts to be paid and raised annually:

"Provided always that no change shall be made by the said by-law which shall have the effect of increasing the amount of the said proposed loan."

~~13.~~ Sections 49, 50, 51 and 52 of the said Act are hereby repealed, and the following substituted therefor:

"~~49.~~—(1) The treasurer shall be the collector of rates for the district, but the board may appoint another person to be such collector.

"(2) Immediately after the passing of the last mentioned by-law in each year the secretary shall make out a collector's roll in which he shall set down in the first column thereof the full name of every person whose name appears upon the revised assessment roll as the owner or occupant of any land to be benefited and in the second column thereof the amount of the drainage rate with which he is chargeable, and shall, unless he himself is collector, deliver the roll certified under his name to the collector appointed by the board and shall also deliver a copy thereof to the treasurer.

"~~50.~~ The collector shall forthwith after the completion or delivery to him of such collector's roll leave at the usual residence or place of business of, or transmit by mail to each person whose name appears on the said roll or to an agent of such person in the district, a statement and a demand of the drainage rate charged against him, which statement shall state the time such rates are required to be paid, and the collector shall enter the date of delivery or mailing such notice in the said collector's roll opposite the name of the person rated and such entry shall be *prima facie* evidence of the due delivery of such statement and demand.

"~~51.~~ All drainage rates payable under this Act shall be deemed to be due on the first day of January of the year in which they are imposed.

52. The collector shall as soon as possible forward all moneys collected by him to the treasurer."

14. Sections 52*a* and 52*b* are added to the said Act as follows:

52*a*. The collector shall on or before the tenth day of January in each year or on such later date as the board may direct return the collector's roll to the treasurer, with an account of all moneys received by him, up to and including the thirty-first day of December of the previous year, accompanied by a solemn declaration made before an officer authorized to administer oaths that the collection and other proceedings have been taken in accordance with the terms of this Act, and that the returns contained therein are correct.

52*b*. The enforcement of the payment of the drainage rate shall be in accordance with the provisions of Part IV of this Act."

15. Section 57 of the said Act is amended as to subsection (3) thereof by adding at the end of that subsection the following: "or made such an amount as shall have been agreed to by, the owner or occupant."

16. Section 60 of the said Act is amended as to subsection (4) thereof by striking out the word "hereinbefore" wherever it occurs in the subsection, and substituting therefor the word "hereinafter."

17. Section ~~63~~ of the said Act is amended by adding at the end thereof the following: "and moreover shall be liable to pay to the board an amount of money equal to the loss which has been occasioned to it owing to any cessation of work consequent upon any such interference, molestation or hindrance."

18. Section 66 of the said Act is amended by adding as subsection (2) thereof the following:

"(2) In the case of elections other than the first election the date of nomination for the board shall be not later than the fifteenth day of February."

19. Section ~~47~~ of the said Act is amended as to paragraph (a) thereof by ~~adding after the words "outside the division" where they occur therein the words "or district."~~

20. Section 73 of the said Act is amended by striking out the words: "If the candidates for trusteeship do not exceed the number directed by the Minister," and substituting therefor the words: "If the number of candidates for trusteeship does not exceed the number to be elected."

striking out the same and substituting therefor the following :

" (a) divide the proposed district into polling divisions and name a polling place for each such division, which place may be outside the division or district, if the returning officer considers it convenient;"

~~21.~~ Section 93 of the said Act is amended by adding as subsection (2) thereof the following:

"(2) Notwithstanding any other provisions of this section, every deputy returning officer may vote at the poll of which he is in charge."

~~22.~~ Section 105 of the said Act is amended by striking out the words: "if the candidates for trusteeship do not exceed in number the number directed by the Minister," and substituting therefor the words: "if the number of candidates for trusteeship does not exceed the number to be elected."

(a)

~~23.~~ Section 118 of the said Act is amended, as to subsection (1) thereof by striking out the words: "the estimated benefit" where they occur therein, and substituting therefor the words "the net estimated benefit or damages."

~~24.~~ Section 119 of the said Act is amended—

(a) as to subsection (3) thereof by striking out the words "the net benefit to be entered" where they occur therein, and substituting therefor the words "the net benefit or damage to be entered";

(b) as to subsection (4) thereof by changing the number to (5);

(c) by adding as subsection (4) thereof the following:
 "(4) The board may, but without imposing any legal liability upon it so to do—

"(a) provide farm bridges for the purpose of giving access to land severed from other land of the same owner by reason of the construction of its drainage works, but any such bridge shall thereafter be maintained by and at the expense of the said owner;

"(b) erect any fences along works or roads that it may deem necessary."

~~25.~~ Section 120 of the said Act is amended—

(a) as to subsection (3) thereof by changing the number to (4);

(b) as to subsection (4) thereof—

(i) by changing the number thereof to (3);

(ii) by striking out the words "at its own expense" where they occur therein and substituting therefor the words "at its own expense in the first instance";

(c) by adding as subsection (5) thereof the following:
 "(5) It shall be the duty of the board thereafter to maintain such bridges and the cost of such maintenance

(b) as to subsection (2) thereof by inserting after the word "benefit" where it occurs therein the words "or damages".

shall be apportioned between the various municipalities concerned and the district respectively in the same proportions as was the original cost of construction, enlargement or improvement thereof by the district, and the sum attributable to any municipality under such apportionment shall constitute a debt due from such municipality to the district."

26. Section 122 of the said Act is amended—

(a) as to subsection (1) thereof by changing the number to (2);

(b) by adding as subsection (1) thereof the following:

"**122.**—(1) The board shall within three years after the completion of the drainage work as fixed by the Drainage Council provide by by-law for the making of a new assessment roll."

27. Section 126 of the said Act is amended by striking out subsection (1) thereof and substituting therefor the following:

"**126.**—(1) Immediately after the preparation of the assessment roll the secretary shall mail by registered letter to each person whose name and address appears therein, a notice setting forth a description of the parcel of land in respect of which he is assessed, the estimated amount of net benefit or damage to the said parcel of land, the total estimated benefit and the total estimated cost of the drainage works over the whole district, together with information as to whether any farm bridges or fences are to be constructed upon the said parcel of land and the nature and location of such bridges and fences."

28. Part IV is added to the said Act as follows:

"PART IV.

"RECOVERY OF RATES.

"**155a.**—(1) All rates or arrears of rates due to a board may be recovered by suit in the name of the board as a debt due to it.

"(2) In any such suit the collector's roll shall be *prima facie* evidence.

"**155b.**—(1) In the event of any rates remaining unpaid after the thirty-first day of December of the year for which the same are levied there shall be added thereto by way of penalty a sum equal to two and one-half per centum of the amount of rates remaining unpaid, and in the event of any rate or any part thereof remaining unpaid after the last day of March next following there shall be added thereto by way of penalty an additional sum equal to two and one-half per centum of the rates which at that date remain unpaid, and in the event of any rate or any part thereof remaining unpaid after the last day of

June next following there shall be added thereto by way of penalty an additional sum equal to five per centum of the rates which at that date remain unpaid, and such penalty shall form part of the rates which by this Act are created a special lien upon the land with respect to which they are payable.

“(2) Nothing in this section contained shall be construed to extend the time for payment of the said rates, nor in any way impair the right of distress or any other remedy provided by this Act for the collection of the said rates.

“(3) Where a penalty of five per centum is added under the provisions of this section it shall be five per centum of the arrears of rates and of the penalties, if any, already added.

“**155c.** The collector shall enter with the date of the receipt all amounts paid him for rates on the collector's roll opposite the parcel of land in respect of which such payment is made and he shall issue an official receipt for each such payment.

“DISTRESS.

“**155d.** In case any person fails to pay the rates assessed against him within thirty days from the mailing of a notice to pay, as shown by the assessment roll, the treasurer may by himself or his agent, levy the same with costs by distress in the same manner as a landlord may recover rent in arrears, and—

“(a) upon all goods and chattels within the district belonging to the owner, occupant or occupier of the land upon which the unpaid rate is by this Act made a special lien, each of which persons is hereinafter included in the term ‘any person benefited’; or

“(b) upon the interest of any person benefited in any goods or chattels found on the said land including his interest in any goods or chattels to the possession of which he is entitled under a contract by which he may become the owner thereof upon performance of any condition; or

“(c) upon any goods or chattels on the said land where the title to such goods or chattels is claimed in any of the following ways—

“(i) by virtue of an execution against any person benefited; or

“(ii) by purchase, gift, transfer or assignment from any person benefited, whether absolute or in trust, or by way of mortgage or otherwise; or

“(iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law, or any person benefited or any relative of his in case such relative lives on the said land as a member of the family; or

computed as a percentage of the sum of

“(iv) by virtue of any assignment or transfer made for the purpose of defeating distress.

“**155e.** The treasurer shall by advertisement posted up in at least five widely separated and conspicuous places in the district give at least ten days’ public notice of the time and place of sale and the name of the person, if known, for payment of whose rates the property is to be sold, and at the time named in the notice the treasurer or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the rates due with all lawful costs, including two dollars for posting notices.

“**155f.**—(1) If the property distrained has been sold for more than the amount of rates due and costs and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus it shall be paid to the person in whose possession the property was when the distress was made.

“(2) If the claim is contested, such surplus money shall be paid over by the treasurer to the Clerk of the District Court for any judicial district within which the district is wholly or partly situated.

“SALE OF LANDS.

“**155g.**—(1) The treasurer of every district shall before the fifteenth day of October in each year prepare a separate statement to be known as ‘The Drainage Rate Enforcement Return;’ and the treasurer shall enter in such return the following information in columns provided for that purpose:

“(a) the name and post office address of each owner whose name appears on the last revised assessment roll of the district and who has not paid all rates due by him to the board for the year next preceding the preparation of the said return;

“(b) a description of each parcel of land in respect of which each owner is assessed and the value thereof;

“(c) a statement of the rates due by each such owner on each parcel of land in respect of which he is assessed and of the penalties incurred in respect of non-payment thereof.

“(2) In case any revised assessment roll has been lost or destroyed in anyway, the Minister may authorize the making of a drainage rate enforcement return from any material or information at the disposal of the treasurer.

“**155h.** The said return shall for all purposes be *prima facie* evidence of the validity of the assessment and imposition of the rates as shown therein and that all steps and formalities prescribed by this Act have been taken and observed.

“**155i.** The owners of the lands shown on the said return shall continue liable to assessment and taxation in the same manner as other owners and occupants in the district unless and until such lands become vested in the board as hereinafter provided; and the treasurer shall continue to collect arrears of rates due to the board as shown by the said return and all rates accruing due after such date, including any penalties imposed under the provisions of this Act and upon receipt of any such payment he shall enter in the return the amount paid followed by his initials and the date of payment.

“**155j.** Such return shall be brought up for confirmation before a District Court judge of a judicial district in which the district is wholly or partly situated, not later than the last day of November next following, and a notice of the time and place of such sitting shall be published in two issues of *The Alberta Gazette*.

“**155k.** A notice of the time and place fixed for confirmation of such return shall be sent by registered mail by the treasurer of the district, at least twenty days prior to the time so fixed, to each person who appears, by the records of the land titles office for the land registration district within which the lands lie, to have any interest in the lands mentioned in the said return in respect of which confirmation is desired, and whose post office address is shown by the said records or return; and the entry against such lands in the said return of the date of mailing of such notice together with the signature or initials of the treasurer shall without proof of the appointment or signature or initials of the treasurer be *prima facie* evidence that the required notice was duly mailed on the date so entered.

“**155l.** Such notice shall be in the following form:

“In the matter of the Court of Confirmation of the Drainage Rate Enforcement Return of the Drainage District.

“Take notice that His Honour Judge, judge of the District Court of the District of, will at a sitting of the Court at on the day of, 19, at the hour of o'clock in the noon, or so soon thereafter as the application can be heard, confirm the drainage rate enforcement return of the Drainage District.

“And further take notice that you appear to be interested in of Sec., Township, Range, west of the Meridian, in the Province of Alberta, as ~~mortgagee (or execution creditor or as the case may be)~~; that the drainage rates outstanding against the said lands are as follows: Current \$, Arrears \$;

“ ‘And that in default of payment of the said arrears of rates before the said . . . day of . . . , 19. . . , the said lands will be included in the said rate enforcement return; and that unless all arrears of rates and costs and expenses lawfully incurred by reason of the non-payment of such rates are paid before that day, the said lands will be offered for sale at public auction, not later than the last day of December next, free and clear of all encumbrances other than the charge imposed by the debentures issued by the . . . Drainage District, and other than taxes and rates charged upon the said lands.’

“ **155m.** If after the date for confirmation has been fixed but before the court of confirmation has been held, any person interested in any parcel of land contained in the return presented to the judge for confirmation desires to pay the rates due in respect of such land as shown by the said return, such person may do so on condition that he pays in addition thereto the amount chargeable against the owner of such parcel of land for costs of application to the judge, postage and all other expenses in connection with such proceedings, and any sum so paid shall form part of the general revenue of the board.

“ **155n.**—(1) At the time and place appointed as hereinafter provided the judge shall hear the applications and also any objecting parties and the evidence adduced before him under oath and thereupon judge and determine whether or not the rates imposed respectively in respect of each parcel included in the drainage enforcement return were either wholly or partly in default and report the adjudication to the treasurer of the district and shall also confirm the said return as to those lands in respect of which any rates are determined to be in arrears, naming the amount of such arrears and adding thereto a reasonable amount for the expenses of postage and other work in connection with the drainage rate enforcement return, together with such amounts as he may fix for the costs of the application.

“(2) The effect of such adjudication when registered as hereinafter provided shall be to vest in the board the said lands for an estate in fee simple therein freed from all other estates and from all liens, mortgages and encumbrances of every nature and kind whatsoever, other than the charge imposed by any debentures issued under the provisions of this Act, and other than taxes and rates charged upon the said lands.

“(3) In the event of any person successfully opposing confirmation of the said return as to land in which he is interested the judge may order an allowance to him as costs to be paid by the board.

“(4) A copy of such adjudication certified by the treasurer shall be forwarded by registered mail to the registrar of titles of every land registration district in which any of the

lands named in the adjudication are situated; and it shall be the duty of the registrar to register the same against any such lands and to issue a certificate of title therefor under the provisions of *The Land Titles Act* in the name of the board for an estate in fee simple therein and free from all other estates and from all liens, mortgages and encumbrances of every nature and kind whatsoever, other than the charge imposed by any debentures issued under the provisions of this Act and other than taxes and rates charged upon the said lands.

“**155o.** Any parcel of land which becomes the property of the board as hereinbefore provided shall be offered for sale at public auction before the first day of January next following, and shall at such auction be knocked down to the highest bidder, who shall upon payment of the purchase price thereof be entitled to a transfer of the land sold to him for an estate in fee simple therein free from all other estates and from all liens, mortgages and encumbrances of every nature and kind whatsoever, other than the charge imposed by any debentures issued under this Act and other than taxes and rates charged upon the said land.

“(2) Every sale proposed to be held by a district shall be advertised in a newspaper having general circulation in the district once in each of the two weeks immediately preceding the proposed date of sale.

“(3) Every such advertisement shall specify the place, day and hour at which such sale will commence and each parcel of land shall be designated therein by a reasonable description, or by stating the number of the registered instrument or instruments from which a description can be deduced or obtained.

“**155p.** The board of trustees may, in the case of any parcel of land, sell such portion thereof as may seem proper to it, if the price obtainable therefor is sufficient to discharge all rates and taxes due thereon:

“**155q.** Upon any such sale as is mentioned in the preceding section being effected, the board shall re-transfer such portion of the said parcel of land as is not included in the said sale to the person who was registered as owner of the said parcel of land prior to the registration of the said adjudication, but in issuing a certificate of title in respect thereof the registrar shall endorse thereon all mortgages, charges and other encumbrances to which the title to the said parcel of land was subject prior to the said adjudication, except such as, by virtue of this Act, are charged upon the portion of the said parcel of land sold for rates.

“**155r.** When any act or thing under the provisions of this Part directed to be done within a limited time is not so done, then anything actually done prior to such omission shall not be thereby vitiated, but shall remain of full effect, and the council, either prior or subsequently to such omission,

may extend the time for completing any such act or thing, which, when completed, shall have the same effect as if done strictly in accordance with the provisions of this Act.

“**155s.**—(1) Any such parcel of land which is not sold at such auction may, subject to the approval of the council, and shall, if it so directs, be sold, leased or otherwise disposed of by the board on such terms and conditions as the Minister may direct or approve.

“(2) Where any land has been sold under the provisions of this Act and there is a balance remaining after payment of all rates, costs, charges and expenses up to and including the date of such sale, the board shall first pay thereout all taxes owing to the Province, any municipality or any school district or pay such taxes *pro rata* in so far as such balance extends and shall then pay over any surplus of such balance to the person or persons declared to be entitled thereto by an order of a District Court judge of a judicial district in which the district is wholly or partly situated, who, in making such order, shall have regard to the priorities to which such persons are or were respectively entitled either at law or in equity with regard to such land or balance.

“**155t.** As long as any land remains in the ownership of the board after the date of such auction the board shall be assessed in respect thereof for all rates hereunder required to be levied thereupon.

“**155u.** Any treasurer or other officer wilfully failing in compliance with the provisions of this Part, on summary conviction thereof, shall be liable to a penalty of not less than one hundred dollars or not more than one thousand dollars.”

~~28.~~ Parts IV and V of this Act are amended by renumbering the same as Parts V and VI respectively.

29. Section 156, with the caption “Dissolution of District,” is hereby made Part V of the said Act.

30. Parts IV and V of the said Act are amended by renumbering the same as Parts VI and VII, respectively.

No. 11.

THIRD SESSION
FIFTH LEGISLATURE
13 GEORGE V
1923

BILL

An Act to amend The Drainage
Districts Act, 1921.

Received and read the

First time

Second time

Third time

HON. MR. SMITH.

EDMONTON:
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