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Dyer Levee and Drainage District

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Dyer Levee and Drainage District

Public Acts of 1913 Chapter 1 (Extraordinary Session)

COMPILER'S NOTE: Some of the provisions of this act may have been superseded by Title 69, Chapter 6 of Tennessee Code Annotated.

SECTION 1. That the lands contained within the following boundaries--to wit: Beginning on the north side of the Obion River, at the mouth thereof, and running from thence up the said river as it meanders to the mouth of the Forked Deer River; thence up the north side of the Forked Deer River to the east boundary of the Martin Armstrong Grant No. 164; thence north with said west boundary line to where the same crosses the center line of the Tiger Tail Branch of the Illinois Central Railroad, thence in a westerly direction to the south boundary line of the corporation of Finely, Tenn; thence with the south and west boundary lines of the corporation of Finley to the center line of the Chicago, Memphis and Gulf Railroad, thence with said center line of said railroad to the north bank of the Obion River, thence up said river, with its meanders, to where the North boundary line of the John Dugan grant for three thousand acres strikes the same; thence west with north boundary line of the said Dugan Tract to where the same crosses the road leading from Cobb's Ferry, thence north with said Cobb's Ferry Road to the road leading from Lane's Ferry to Curtner Springs, thence continuing in a westerly and northerly direction with the said Curtner Springs Road, past Curtner Springs , and continuing on north with the road that lies nearest the hills, crossing the Dyer and Obion County line, to Webb's Store, in Obion County ; thence to the edge of Realfoot Lake at low-water mark, thence south and west with the borders of the lake at low-water mark to the west end of the bridge at the head of the washout in Lake County, Tenn.; thence in a westerly direction to the bank of the Mississippi River, thence down the said river, with its meanders, to the beginning--be, and the same are, hereby constituted a levee and drainage district, to be known as the "Dyer Levee and Drainage District," with all the power and privileges that such district would have if established under and by virtue of the Act of the General Assembly of 1909, Chapter No. 185.

SECTION 2. That E. Rice, of Dyer County, Tenn.; R.C. Donaldson, of Lake County Tenn.; and Tom Morris, of Obion county, Tenn., are hereby appointed a Board of Directors of the above mentioned district, and as such Directors they shall have the general control and management of the business affairs of said district and supervision of the same, and be vested with power and authority to make contracts as provided by this Act for all improvement to be done in said district; that at the January term , 1915, of the Quarterly County Court of Obion County , and every four years thereafter, there shall be elected by the said County Quarterly Court one freeholder of said county , who is interested in the lands of said district, to succeed the said Tom Morris; that at the January term, 1916 of the County Quarterly Court of Lake county and every four years thereafter, there shall be elected by the said County Quarterly Court one freeholder of said county , who is interested in the lands of said district, to succeed the said R.C. Donaldson; and at the January term of 1917 of the Quarterly County Court of Dyer County and every four years thereafter, there shall be elected by the said County Quarterly Court one freeholder of said county , who is interested in the lands of said district, to succeed the said E. Rice. If there shall be a vacancy in the office of the said Board of Directors at any time because of resignation or other reasons, the county Court of the county in which said vacancy occurs shall appoint another Director of like qualifications to fill such vacancy until the next Quarterly County Court of said county, at which time the said vacancy shall be filled by the election of a Director by the said Quarterly Court; and for sufficient reason the County Court may remove a Director so appointed, but not until such Director has had at least five days' notice of the time of the hearing and of the grounds upon which he should be removed as alleged; and he shall thus be entitled to be heard and to introduce proof on the issue as to whether he shall be so removed as a Director; and if on the hearing the decision of the County Court is that he be removed, he may appeal therefrom on giving cost bond to the Circuit Court of the county, where the matter shall be heard anew and such judgement given as that court deems just and proper. If a Director is removed, the County Court shall appoint another to serve until the next meeting of the Quarterly Court of the county whose Director shall have been removed. The said above-mentioned persons shall, within thirty days after the passage of this Act, organize by the election of one of the three members as Chairman and one of the three members as Secretary and Treasurer.

SECTION 3. That the said Board of Directors shall, within ninety days from and after the passage of this Act, make a report, which said report shall be filed with the Clerk of the county of each of eh said counties of Dyer, Lake, and Obion, in which said report they shall show the location of the levee to be established from the grounds of Lake County, Tenn., at Tiptonville, to the mouth of the Obion River, showing the ownership of each tract of land over which the said levee shall run, as far as is practicable, and ascertain the said ownership and the number of acres to be taken therefrom to properly construct the said levee. They shall also show the location of any drainage ditch or ditches that may be necessary to carry off the

water that may interfere with such levee, showing also the necessary change of any water course within the said district that may be necessary for the proper erection and protection of such a levee, giving the names of the owner of the land over which the said ditch or ditches may pass and the number of acres to be taken therefrom; and that for the making of said report and the ascertaining of such information the said Board of Directors shall have the power to employ such engineer or engineers, rodman, axmen, and other help as they may be necessary, returning an itemized expense account to the said County Court Clerks of Dyer, Lake, and Obion. Said report submitted within ninety days to the County Court Clerks, if not complete as to any details, further time may be granted by said County Courts in which to complete said report as to specific details. In making up said report, the Board of Directors may, if they see fit, rely upon the survey and the report by the engineers of the Federal Government under and by virtue of the Act of Congress approved July 25, 1912.

The said Board of Directors shall also submit a report, showing the estimated cost of constructing such a levee and necessary ditches, and in said report may rely upon the said survey and report of the Federal authorities aforesaid.

The said Board of Directors shall confer with the Mississippi River Commission, and ascertain what portion of the cost of construction will be borne by the said Federal Government, and make return of such information with the above said report.

SECTION 4. That upon the report of the Board of Directors being filed, five days' notice to the owner, his agent or representative, if such can be found in the county, and, if not, by publication of some newspaper of said county, will be given by the Clerk of the County Court in which the land lies, to the owners of said lands which are sought to be taken for the erection of said levee or drainage ditches, that said land shall be appropriated for the purpose aforesaid; and the County Court of the county within which the land lies, to the owners of said lands which are sought to be taken for the erection of said levee or drainage purpose aforesaid; and the County Court of the county within which the land sought to be taken lies will, within four months after the passage of this Act, appoint viewers, who, after being duly sworn to act impartially and faithfully to the best of their ability, shall proceed to view the premises and determine and fix the amount of damages to which each claimant is entitled, and file a report in writing with the County Court Clerk, showing, first, the value of the lands sought to be taken, and second the amount of incidental damages each claimant will be entitled to because of the establishment of the proposed improvement. The report of the viewers shall be filed as soon as practicable; and if any of them fail or refuse to act for any reason, or they do not proceed to act with promptness, the County Court may appoint other viewers in place of any or all of them.

In estimating the damages, the viewers shall give the value of the land proposed to be taken, without deduction; but incidental benefits may be taken into consideration in estimating the incidental damages.

SECTION 5. That upon the (sic) filing the said report, the court will enter a judgement in favor of party whose land is taken against the said levee and drainage district, and from which said judgement either the said levee and drainage district or any party aggrieved may appeal to the next term of Circuit Court of the county in which said judgement is rendered; and any party so desiring to appeal shall have the benefit of such appeal at any time within ten days after such decision is made, without formally praying an appeal, by filing with the Clerk of the County Court notice of such an appeal, at the same time filing with said Clerk a bond, to be approved by the said Clerk, in the sum of two hundred and fifty dollars, and conditioned to pay all costs and expenses of the appeal, unless the finding of the Circuit court shall be more favorable to the appellant or appellants than the finding or decision of the County Court; provided, however, that it shall not be necessary for the levee and drainage district to execute any such bond.

The Circuit Court shall hear any such appeal de novo, and the proceedings shall be as in other condemnation cases.

SECTION 6. That any person claiming damages as compensation for or on account of the construction of such levee or drainage ditch or ditches shall, within four months after the passage of this act, file such claim in the office of the County Court of the county in which the said property lies, and, on failure to file such claim within the specified time, shall be held to have waived his rights thereto. If any claims for damages have been filed as above provided, the viewers appointed under the foregoing section shall assess such damages and make report thereof to the County Court of the county in which such damages accrue, upon which said report the said county Court shall enter judgement against said levee district. Either party may appeal from such judgement to the Circuit Court of said county by giving bond and notice as in the foregoing section; provided, however, it shall not be necessary that the levee and drainage district execute such appeal bond.

SECTION 7. That after the said amounts of damages shall have been fixed by the said County Court upon report of the said viewers, the amount of all such damages shall, by said court, be required to be paid in the first instance by the said levee and drainage district or be secured to be paid upon such terms and

conditions as the County Court may deem just and proper; that after said judgement shall have entered, the said County Court shall enter a proper order of condemnation, showing all such lands are appropriated and belong to such levee and drainage district for all its necessary purposes; and the said court will issue a writ of possession and put the said Board of Directors of the said levee and drainage district in possession of the said property so appropriated.

SECTION 8. That the appeal hereinbefore provided for shall in no way affect the issuance of the writ of possession by the said County Court after the said judgement against the said levee and drainage district shall have been paid or secured as provided for hereinabove.

SECTION 9. That when the said levee and drainage ditches necessary for proper erection thereof shall have been located as provided in this Act, the County Court of each county shall appoint one Commissioner from its county, who shall be a freeholder of the county from which he is appointed, not living in the levee and drainage district herein provided for and not interested therein or in any like question, nor related to any party whose land is affected thereby; and they shall as soon as practicable after their appointment, and after being duly sworn to perform their duty faithfully and impartially to the best of their ability, inspect and classify all the lands benefited by the location and construction of such drainage or levee district in the graduated scale of benefits, naming the tract or tracts of each owner, and so classifying the same, each tract to be numbered according to the benefit received, as below provided, by the proposed improvement; and they shall make an equitable apportionment and assessment of the cost, expenses, costs of construction, fees, and damages assessed for the construction of any such improvement, and make report in writing thereof to the County Court of the county wherein such tract lies.

In making said estimate and apportionment, the lands receiving the greatest benefit shall be marked on the scale of 100, and those benefited in a less degree shall be marked with such percentage of 100 as the benefit received bears in proportion thereto. This classification, when finally established, shall remain as a basis for all future assessments connected with the objects of said drainage and levee district, unless the County Court, for good cause, shall authorize a revision thereof. In making such classification, said Commissioners are authorized to divide the land of one owner lying in one body into more than one tract and classify each subdivision thereof, if they are of the opinion that portions of such entire tract will be more benefited than other portions, and especially when such entire tract is a large one, and that it will be more equitable and just to so classify it in subdivisions. In the report of said Commissioners they shall specify each tract of land by reasonable description, and the ownership thereof, as the same appears on the tax books of the county, if such description is practicable; if not, such description as they deem best.

After the said reports shall have been filed, the levee and drainage district or any party or parties interested who is affected thereby, or whose lands are assessed, shall have thirty days in which to file objections to said report; and the said County Court of the county in which said objections shall have been filed shall proceed to hear and determine all objections to said report filed, and may increase, diminish, or annul or affirm the apportionment or assessment made in such report, or any parts thereof, as may appear to the court to be just and equitable; and when such hearing shall have been had, the County Court shall assess the said apportionment so fixed by it upon the land within such levee or drainage district.

If the first assessment made by the court for the original cost of an improvement as provided in this Act is insufficient, the court may make an additional assessment in same ratio as the first. If for any reason the court annuls in toto or set aside such report or remove them and appoint new Commissioners to act as in the first instance, if desired by the parties concerned.

SECTION 10. That the assessments shall be levied upon the land of the owners so benefited in the ratio aforesaid, and shall be collected in the same manner as taxes for the county purpose, except as herein provided; and the funds so collected shall be kept as a separate fund, and shall be paid out only for the purposes properly connected with such warrant of the judge or chairman of the County Court.

SECTION 11. That an appeal may be taken to the Circuit Court of the county from the order of the County Court fixing the assessment or benefits upon the lands in the same manner and time as provided for appeals from the assessment of damages, and the action of the Circuit Court shall be certified by the Clerk of the said Circuit Court to the County Court.

SECTION 12. That when an appeal is taken from an order of the County Court made in any proceeding before it under this act, the County Court may employ counsel to present the interests of the levee and drainage district affected by such appeal, and on the trial thereof in the appellate courts, and the expenses of such counsel shall be paid out of the drainage fund of such district.

SECTION 13. That in said counties of Dyer, Lake, and Obion the County court Clerk of such county shall provide a book, to be known as the "Levee and Drainage Record," to be paid for by each of said counties; and the said Clerk shall keep therein a full and complete record of all the proceedings arising under this

act, including all the orders made by the County Court and certified from the circuit Court, and a copy of all bonds required to be given under this Act, etc.

SECTION 14. That the fees of the county Court Clerk in proceedings under this act shall be the same as for similar service now allowed by law; and in such case the County Court may allow said clerk an additional sum for extra service, or services not covered by existing fee bills or statutes, to be fixed by the court and paid as other costs and expenses in the case or proceedings.

SECTION 15. That where any assessments made and levied under this act cannot for any reason be enforced and part of the work has been done, the County Court shall proceed as to any or all lands benefited by said improvement in the same manner as if the appraisalment and apportionment of benefit had never been made, in which event any payment already made shall be duly credited to those who have paid the same.

SECTION 16. That no contracts for improvements have been done in such drainage or levee district shall be made until after the Commissioners provided for in this Act have made their inspection, classification, and apportionment, and assessment of benefits have been determined and settled by the court; but after the said Commissioners and the court have so acted, then such contract may be made by the Board of Directors of said district. Before entering into any contracts for improvements, the Board of Directors of said district shall cause notice to be given once a week for four consecutive weeks in some newspaper published in the county wherein such improvement is located, and such additional publication elsewhere as they may direct, of the time and place of letting the work for construction of said improvement; and in such notice they shall specify the approximate amount of work to be done in each section and the time fixed for the commencement and completion thereof; and they shall award contract or contracts for each section of the work to the lowest responsible bidder or bidders thereof, or they may award the contract as a whole to the lowest responsible bidder, exercising their own discretion as to letting said work as a whole or in sections, and reserving the right to reject any and all bids and readvertise the letting of the work.

The successful bidders shall be required to execute a bond, with sufficient surety, payable to the county, for the use and benefit of the levee and drainage district, in an amount equal to twenty-five per centum of the estimated cost of the work so let, or he may deposit such amount in cash with the Treasurer of the Board of Directors as security for the performance of his contract; and upon execution of such a bond, or the making of such deposit, the deposit originally made with his bid shall be returned to him.

SECTION 17. That said Board of Directors shall employ a competent engineer to take charge and supervision of such improvement work, contracting with him for compensation for his services in such sum or at such rate as may be agreed upon, and to be paid as other expenses of such district. The Directors may remove such engineer and contract with another if they see fit for any reason.

The engineer in charge of the construction shall furnish this contractor monthly estimates of the amount of work done on each section; and upon filing the same with the County Court Clerk, the Judge or Chairman of the County Court of Dyer, Lake, and Obion Counties shall draw a warrant in favor of such contractor for eighty per centum (80%) of the work done, according to the estimate of each of the county's proportionate part; and when said work is complete to the satisfaction of the Board and said engineer, and so certified by him and said Board, such certificates files with the County Court Clerk, then the Judge or Chairman of said County Court shall draw a warrant in favor of the contractor for each county's proportionate part of the balance due. All warrants shall be drawn upon the County Trustee or Treasurer as the ordinary county warrants are drawn, but shall be payable only out of the funds provided for by such levee and drainage district, and shall so state upon their faces. the Board of Directors shall require such engineer to give bond in such sum as they may deem proper for the faithful performance of his duties, such bond to be payable to the county or State, for the use of such improvement district, and filed with the County Court Clerk and recorded in the drainage record; provided, however, the said board of Directors may make an agreement with the Mississippi River Commission to allow the said work of construction to be done under the control and direction of the Federal Government; and the portion chargeable to the said drainage district may be paid out upon such terms as the said Board of Directors may deem to the best interest of said district. Copy of such agreements shall be filed with the County Court Clerk of said counties.

SECTION 18. That whenever any railroad or public highway will be beneficially affected by the construction of such improvement or improvements in such district established hereunder, it shall be the duty of the Commissioners appointed to classify and assess benefits, to determine and return in their report the amount of the benefit to such railroad upon its nearest station agent, and as to such highway, notice shall be served upon the Judge of Chairman of the County Court; and when such special assessments have been approved and filed by the County Court as hereinbefore provided, as to such railroad company; and unless the same is paid by the railroad company as special assessment, it may be collected in the name of the county in any court having jurisdiction; and as to a highway, such assessment shall be paid by the county our of the general fund or highway tax fund, such assessments to be paid into the fund of such

levee and drainage district.

SECTION 19. That whenever the making of such improvement across a public highway necessitates the building of a bridge over the same, the county shall build and construct the same and pay all the cost thereof out of the county bridge fund, if such fund be provided, and, if not, out of the general county fund.

COMPILER'S NOTE: Section 20 does not appear in the text of the original version.

SECTION 21. That the assessments as provided for by this act shall be collected by the County Trustee as county taxes are collected, except as herein provided; and the funds so collected shall be kept as a separate fund, and shall be paid out only for the purposes properly connected with such improvement on the order or warrant of the County Judge or Chairman; but such assessments may be collected by bill filed in chancery as herein provided, and no personal property of the owner of land so assessed shall be liable or distrained upon for such assessment.

SECTION 22. That the improvement in the levee and drainage district herein provided for may consist solely, if so desired by those concerned, in the changing in whole or in part of the course or channel of a natural water course, or in straightening, as far as practicable, such water course and cleaning out so much of its natural channel as it is desired to utilize; or the improvement in such drainage district may, in addition to the main ditch or drain or channel, include such other lateral and other ditches and levees as may be deemed proper and necessary.

SECTION 23. That if the County Court shall determine that the estimated cost of reclamation and improvement of such district of land or levee or drainage district is greater than should be levied in a single year upon the lands benefited, the court may fix the amount that shall be levied and collected each year, and may issue drainage bonds of the county, bearing not more than six per centum interest, said interest payable annually; and may devote such bonds at par, with accrued interest, to the payment of the expenses and word as it progresses, or may sell the same at not less than par, with accrued interest, and devote the proceeds to such payment; and if in the sale of said bonds a premium is received, such premium shall be credited to the drainage fund; and should the cost of such work exceed the estimate, a new apportionment of the assessment may be made and levied and other bonds issued and sold in like manner, but in no case shall the bonds run longer than twenty years. Any property owner may pay the full amount of the benefit before such bonds are issued and receive a receipt in full therefor. Such payment shall be made to the County Trustee, and it shall be the duty of the County Clerk to certify to the Trustee the amount of any such assessment when requested to do so, and the Trustee shall enter the same upon the assessment lists in his lands in a separate place provided therefor, and shall furnish the County Clerk with duplicate receipts given for all assessments so paid in full, one of which the Clerk shall deliver to the Judge or Chairman of the County Court; and the Trustee shall also give a receipt to the property owner so paying in full. The terms and time of payment of the bonds so issued shall be fixed by the Board of Directors of the improvement district, and such bonds shall be signed by the Judge or Chairman of the County Court and countersigned by the Clerk of the County Court, each of said officers signing his name officially, and shall be verified either by the county seal or seal of the County Court Clerk. Each bond shall show expressly upon its face that it is to be paid only by assessments levied and collected on the lands within the said district, nor shall any assessment be levied or collected for the payment of said bond or bonds, or the interest thereof, or any property, real or personal, outside said district.

Such bond shall be in denominations of not less than fifty dollars, and the County Court of each county shall determine whether bonds shall be issued to meet the expense, etc., of the improvement so far as the lands of the district lie in that county; and if so issued, the bonds shall be signed by the Judge or Chairman of the County Court of such county and countersigned by the County Court Clerk and verified by the county seal or seal of the County Clerk, and shall be payable only out of the assessments levied for such improvement on the lands in such county.

SECTION 24. That if the Board of Directors of said levee and drainage district provided for by this Act deem best, instead of issuing bonds, they may direct that warrants shall be issued or drawn on such district or on the County Trustee of each county by the Judge or County Chairman of each County Court, to be paid out of the funds of such district only, and at such times as the assessments may be due, or as may be deemed best, the time of the maturity of assessments as fixed being considered, such warrants to be issued or drawn for all lawful demands on such district, and to bear interest at not more than six per centum per annum.

SECTION 25. That the assessments provided for by this act, when made and levied, shall be and become valid liens upon such lands so assessed, just as State and county taxes are liens upon lands; and when such assessments have been due and delinquent for sixty days, bills may be filed in Chancery Court of the county or chancery district in which the land lies, upon which such assessments are due and delinquent, for the collection thereof out of such lands by sale thereof, in all cases except in cases where the assessment is made against a railroad company or public highway as herein provided for. Such bills in chancery shall

be filed in the name of the county in which the land is situated, for the use of the said levee and drainage district, and against the owner if known, and, if unknown against them as such ; and the owners of all lands upon which assessments are delinquent may be defendants to the same bill and parties thereto. When it is desired by the Board of Directors, or other parties interested entitled to sue, to file such bill, the County Trustee, upon request, shall make out a statement or list, showing all the lands upon which such assessments are so delinquent, and the names of the owners thereof, as appears upon the drainage assessment book, or showing any tract assessed to unknown owners, if such be the case, and certify as Trustee to the correctness of such statement or list as the same appears upon said book; and in such chancery suits such certified statement or list shall be prima facie proof to authorize a decree of sale in the absence of rebutting proof of the facts shown by such certified statement. Such suits in chancery shall be preceded with as other suits are in said court, except that the court, may hear the case as to anyone or more defendants, though the case may not be disposed of as to the other defendants. When a sale is ordered in such suit and is made and reported, the Clerk and Master of such court so making the sale shall report what public taxes, if the same be confirmed, shall be paid first out of the proceeds of such sale before such sale by the Chancery Court, it shall vest title out of the owner and vest it in the purchaser, the lands so purchased shall be subject, in the hands of the purchases his heirs or assigns, to any other assessment not yet due or unpaid that may have been made and fixed and levied upon it at the time of such confirmation of sale, for the benefit of said levee and drainage district, on account of which such sale has been made. When any such sale is made by decree of the Chancery Court, it shall be for cash; and the owners of the lands so sold shall have two years from the date of confirmation of such sale in which to redeem the same by paying to the Clerk and Master of such court making the sale the amount paid by the purchaser for the said land, with legal interest thereon, to the date of redemption, and also a further sum equal to ten per centum of the amount so paid by the purchaser of said lands. In such proceedings in Chancery Court the attorney or solicitor employed and attending to the suit shall be allowed as a fee ten per centum of the amount due as an assessment or assessments on each tract of land decreed sold, the same to be charged up in the decree as a part of the judgement for which the land is to be sold; and when such lands are redeemed as herein provided, and this fact is made satisfactory to appear to the Chancery Court, the court shall enter a decree in the cause, adjudging the lands so redeemed and declaring it to be the property of the owner so redeemed, or his heirs or assigns, if redeemed by his heirs or assigns, and if necessary, may award a writ of possession to put the person so redeeming into possession of the land.

Provided, however, that infants and persons who are lunatics and of unsound mind shall have the further period of one year after removal of such disability in which to redeem their lands sold under the provisions of this Act, under like terms as to amounts to be paid, in redemption as above provided.

SECTION 26. That the assessments provided for by this Act, if not paid by the owners of the lands assessed, shall be collected only out of the lands so assessed for said improvement purposes, and shall not be collected by distress warrant or otherwise out of any other property, real or personal, of the owners of the lands so assessed under the provisions of this Act.

SECTION 27. That engineers employed by the Board of Directors of said levee and drainage district to supervise the work, etc., shall be paid for their services such salary or sum as may be agreed upon between them and such Board of Directors; that engineers appointed hereunder by either of said County Courts shall be paid for services at such rate as the courts appointing them may fix, and, if so fixed at the rate of five dollars per day while engaged in the work, and, in addition, all actual traveling expenses, an itemized account of such expenses to be kept by item and reported and sworn to; that the viewers and Commissioners provided for by this act shall be paid at the rate of three dollars per day while engaged in the work , and, in addition, all actual expenses, including board paid fork an itemized account of the same being reported and sworn to; and the other necessary help aiding the engineer, viewers, and Commissioners, such as chain carriers, axmen, etc., shall be paid not more than two dollars per day.

For collecting and paying out assessments under this Act the Count Trustee shall receive the same compensation that he receives for collecting public taxes, and for any certified statement furnished by him the same fee per one hundred words as are allowed clerks of courts for certified copies of records; and if there be any services required of any person under the provisions of this Act and the rate of pay therefor is not provided for hereby, then the County Court shall fix the amount of rate of pay in such cases; provided, however, that the members of the Board of Directors shall not be entitled to receive any pay for their services, but only be reimbursed or paid their actual expenses incurred on account of attending to their duties as Directors, an account of the same to be kept, made out, and sworn to by each.

SECTION 28. That if any person to whom the work, or any portion of the work, in such levee or drainage district has been let shall fail to perform the same according to the terms specified in the contracts, then the cash deposited by him shall be forfeited for the benefits of such district and be paid into its funds; or if bond has been given by such contracting party so failing, then recovery of the damages sustained may be had by suit in the name of the payee in such bond for the use of such district, and such damage or

judgement therefor collected and paid into the funds of such district.

SECTION 29. That the owners of lands which require combined drainage may provide for the establishment of a drainage district, or location and construction of drains, ditches, and water courses, upon their lands by mutual agreement in writing, duly signed, acknowledged, and filed with the County Court. Such agreement may include the location, the character of work to be done, the adjustment of damages, the classification of the lands to be benefited thereby, the amount of special assessments to be levied, or so many of these or other provisions as may be agreed upon and to such extent shall be as valid and binding as though performed in the mode and manner provided for in the Act of the General Assembly of 1909, Chapter No. 185.

Under the filing of the agreement with the County Court Clerk, the County Court shall establish such drainage district and locate the ditch, drain, or other water course, as provided for in said mutual agreement, according to the terms thereof, and shall thereafter have full and complete jurisdiction of the parties and subject matter, and order such procedure under the provisions of this act of under the Act of the General Assemble of 1909, Chapter No. 185, as may be required or is necessary to carry out the object, purpose, and intention of such agreement, and to complete and construct the desired improvement, and shall retain jurisdiction of the same as fully as in other cases made and provided for by the Act of the General Assembly of 1909, Chapter No. 185.

SECTION 30. That the preliminary expenses of such levee or drainage district, ditch, or water course improvement provided for by this Act (not including contracts for the construction) may be paid, by order of the Quarterly County Court of either of said counties of Dyer, Lake, and Obion, out of the general fund of said county, the same so paid to be refunded to said county out of the assessments collected from the lands of the said levee and drainage district when so collected; provided also, that the said Board of Directors shall have the power to contract indebtedness for preliminary expenses to a sum not exceeding twenty-five hundred dollars. If such indebtedness shall be contracted by said Board of Directors, the said Board of Directors shall make out a statement thereof, which shall be itemized and sworn to and filed in the office of the Clerk of each of the said counties, when such sum shall by paid out of the funds arising from the assessments of the lands in said levee and drainage district.

SECTION 31. That all the references to the County Court in this Act shall be held to mean the court presided over by the Judge or Chairman, and not the Quarterly Court, unless the Quarterly Court is specifically vested with jurisdiction and power to act.

SECTION 32. That this Act is not intended to apply to Reelfoot Lake proper and the waters thereof, or to authorize the drainage of same, and this act shall not be construed in any way to authorize the draining of said lake.

SECTION 33. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: September 15, 1913.

Source URL: <https://www.ctas.tennessee.edu/private-acts/dyer-levee-and-drainage-district>