

University of Colorado Law School

Colorado Law Scholarly Commons

Session Laws 1901-1950

Colorado Session Laws

1913

Authorizing the State Board of Land Commissioners to Improve by Irrigation the Lands Belonging to the State of Colorado, and to Invoke the Power of Eminent Domain over Public Lands of the United States, in Furtherance Thereof.

Colorado General Assembly

Follow this and additional works at: <https://scholar.law.colorado.edu/session-laws-1901-1950>

Recommended Citation

Colorado General Assembly, "Authorizing the State Board of Land Commissioners to Improve by Irrigation the Lands Belonging to the State of Colorado, and to Invoke the Power of Eminent Domain over Public Lands of the United States, in Furtherance Thereof." (1913). *Session Laws 1901-1950*. 1423. <https://scholar.law.colorado.edu/session-laws-1901-1950/1423>

This Act is brought to you for free and open access by the Colorado Session Laws at Colorado Law Scholarly Commons. It has been accepted for inclusion in Session Laws 1901-1950 by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact rebecca.ciota@colorado.edu.

CHAPTER 150.

STATE LAND.

IRRIGATION.

(H. B. No. 550, by Messrs. P. B. Gates and Ardourel.)

AN ACT

AUTHORIZING THE STATE BOARD OF LAND COMMISSIONERS TO IMPROVE BY IRRIGATION THE LANDS BELONGING TO THE STATE OF COLORADO, AND TO INVOKE THE POWER OF EMINENT DOMAIN OVER PUBLIC LANDS OF THE UNITED STATES, IN FURTHERANCE THEREOF.

Be It Enacted by the General Assembly of the State of Colorado:

Land Commissioners authorized to irrigate and improve land.

Section 1. That the State Board of Land Commissioners of the State of Colorado be, and it is, hereby authorized and directed to take, on behalf of and in the name of the State, as speedily as practicable, such action as may, in the judgment of said Board, be necessary or desirable to irrigate and improve such lands belonging to the State of Colorado, and lying in the San Luis Valley and elsewhere, as may in the judgement of the Board be susceptible of improvement by irrigation.

Actions to secure irrigation.

Section 2. That such action be taken by initiating such water rights and systems for reservoirs, canals and conduits, or by the purchase of existing water rights, systems for reservoirs, canals and conduits, or an interest therein, including pumping plants, highways and such other accessories as may, in the judgement of the Board, be necessary or desirable to the successful accomplishment of the objects of this act.

Laws of State and U. S. invoked.

Section 3. That in furtherance of such objects the Board shall proceed in accordance with the irrigation laws of the State, in so far as the same be applicable, and may, if it so elect, also proceed under the laws of the

United States relating to the acquisition of such rights or easements upon and over the public lands of the United States.

Section 4. That in case such procedure, or any part thereof, shall be under the laws of the United States, the Board shall not be bound, or required, to accept or concur in the action or decision, or failure or delay in action or decision of any departmental or other officer, agent or employe of the United States, if in the judgment of the Board the same is not in good faith, or for the mere purpose of delay or is adverse to be legal, constitutional or inherent rights of the state.

Board not bound to concur in departmental decisions.

Nor shall the Board, in any event, accept or concur in any such action, decision, grant or permit which is, or purports to be, revocable by the United States or by any departmental or other officer, agent or employe of the United States at discretion, or without reasonable cause and opportunity to be heard.

Section 5. That in case of such procedure under the laws of the United States and in the event that any departmental or other officer, agent or employe of the United States, shall, in the judgment of the Board, fail or refuse to act or decide within a reasonable time, or in bad faith, or for mere purpose of delay, or act or decide adversely to the legal, constitutional or inherent rights of the State, upon any question involved and subject to his action or decision, or shall obstruct, hinder or interfere with the necessary occupancy or possession of the lands involved, by the State, or any of its agents or employes, the Board shall at once proceed to acquire the desired rights or easements occupancy or possession by invoking the power of eminent domain of the State.

Invoke power of eminent domain.

Such proceedings including the right to enter upon the lands involved for the purpose of examination and survey, and the right of possession during the pendency of the action, and in all other respects shall be as provided in Chapter XLV of the Revised Statutes of Colorado, 1908, in relation to Eminent Domain, and amendments thereto, in so far as applicable, and as supplemented and enlarged by this act.

Provisions of Chap. 45, R. S. 1908.

Section 6. Such action shall be brought in the name of the State of Colorado as plaintiff, in the district court of any county in which the system of irrigation or any

Actions in the name of the State.

OWNERS
ING TO
POWER
F THE

do:

ommiss-
by au-
in the
action
ary or
ring to
Valley
ard be

iating
la and
s, sys-
interest
such
Board,
pplish-

ts the
ation
cable,
of the

part thereof is located, or is to be located, and shall make as defendants thereto by proper name and official title, when known, such departmental and other officers, agents and employes of the United States as have or claim to have jurisdiction, possession, charge or control, or are exercising the same, over the lands involved or any part thereof; also such other officers, agents and persons as the Board may deem necessary or proper.

Summons,
process.

The summons and other process shall be served and return made in the manner prescribed in the aforesaid laws of the State relating to eminent domain, or in any other manner required by the order of the court or judge in the action.

Interests of
the United
States, sub-
ject to juris-
diction in
Court.

Section 7. That upon the completion of service and return of summons or other process and the expiration of the time required by law or the order of the court or judge before whom the action is pending for the appearance of the defendants, they, and all interests of the United States in the lands involved shall be deemed to be in court and subject to its jurisdiction, and thereafter, such proceedings shall be had as are required by the aforesaid laws of the State, so far as applicable and as supplemented and enlarged by the provisions of this act, and if the judgement of the court be in favor of the State it shall vest in the State the rights and easements so adjudged, upon and over all public lands of the United States so involved, whether the same be reserved or unreserved, or withdrawn temporarily or permanently for any purpose whatever, except those held for strictly governmental purposes, the jurisdiction over which has been ceded by the State to the United States.

Mandamus.

Section 8. Nothing in this act shall prevent the Board or the State from proceeding in aid of the action herein provided for, or independently thereof, by mandamus, injunction or other appropriate action at law or in equity, civil or criminal, to acquire irrigation rights and easements upon the public domain for the benefit of the State or its citizens, or to protect and defend the same.

Attorney
General to
aid in en-
forcement.
Employ as-
sistant.

Section 9. The Attorney General of the State is directed to give prompt and special attention to the enforcement of this act and shall, when so requested by the Board, give advice and take such legal action as in his judgement is necessary or proper, and to that end may,

if necessary, with the approval of the Board and Governor, employ not to exceed one lawyer or firm of lawyers to assist him therein, but no retainer shall be paid or other payment for such services made until after the same have been rendered, or concurrently with such rendition.

Section 10. There is hereby appropriated the sum of \$2,500, or so much thereof as may be necessary, for the purpose of carrying out the provisions of this act, payable out of the Internal Improvement Fund or the proceeds of the sale of land under Section 5197 of the Revised Statutes of Colorado, 1908, or both; the same to be expended under the direction of the Board, with the approval of the Governor, but only in payment for services and expenses actually rendered or incurred, or the purchase of existing irrigation systems or interests therein, or damages awarded under eminent domain proceedings, or such other expenses as may be reasonably necessary to the effectual enforcement of this act.

Appropriation.

Vouchers therefor to be approved by the president of the Board and the Governor.

Vouchers.

Section 11. That all acts and parts of acts inconsistent with this act are hereby repealed.

Repealing clause.

Approved May 2nd, 1913, at 11:55 o'clock, A. M.

I make
d title,
agents
aim to
or are
y part
as the

ed and
oresaid
in any
judge

ce and
tion of
urt or
ppear-
of the
d to be
after,
by the
and as
is act,
e State
go ad-
United
or un-
ly for
y gov-
s been

nt the
action
anda-
or in
ts and
of the
me.
ate is
he en-
by the
in his
(may,