

## CHAPTER 178—S. F. No. 279.

*An Act to provide for appeal to the district court from decision of board of aldermen or other officers authorized to condemn property or order the removal thereof, by virtue of damages by fire or other cause in all villages, burroughs and all cities of less than ten thousand inhabitants.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Appeal to the district court from award of board of aldermen.**—In all villages, burroughs and cities of less than ten thousand inhabitants, where any property has been condemned or ordered removed, by virtue of damages by fire or other cause, the owner of such property may appeal to the district court of such county, from the decision of such board of aldermen or other officers condemning such property, within thirty (30) days after notice served of such decision; provided, however, this act shall not apply to buildings made of brick or stone.

**Sec. 2. Notice of appeal—Trial of action.**—Notice of such appeal shall be filed with the clerk of such village, burrough or city. It shall be the duty of such clerk to file in the office of the clerk of said court, copies of the proceedings had in such matter, with the notice of appeal within ten days after the filing of such notice of appeal. The case shall thereupon be tried in said court in the same manner as if originally commenced therein and the court may order issues joined and pleadings filed.

**Sec. 3.** All acts and parts of acts inconsistent herewith are hereby repealed.

**Sec. 4.** This act shall take effect and be in force from and after its passage.

Approved April 7, 1913.

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CHAPTER 179—S. F. No. 603.

*An Act to amend Section Twenty-six (26) of Chapter Two Hundred Thirty (230) of the General Laws of 1905, as amended by Section Four (4) of Chapter Three Hundred Sixty-seven (367) of the General Laws of Minnesota for 1907, as amended by Section Ten (10) of Chapter Four Hundred Sixty-nine (469) of the General Laws of Minnesota for 1909, as amended by Section Eight (8) of Chapter Three Hundred Eighty-four (384) of the General Laws of Minnesota for 1911, relating to county and judicial drainage ditch proceedings and to procedure therein.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Proceedings for widening or deepening a county or judicial ditch.**—That Section Twenty-six (26) of Chapter Two

Hundred Thirty (230) of the General Laws of Minnesota for 1905, as amended by Section Four (4) of Chapter Three Hundred Sixty-seven (367) of the General Laws of Minnesota for 1907, as amended by Section Ten (10) of Chapter Four Hundred Sixty-nine (469) of the General Laws of Minnesota for 1909, as amended by Section Eight (8) of Chapter Three Hundred Eighty-four (384) of the General Laws of Minnesota for 1911, be and the same is hereby amended so as to read as follows:

"Section 26. After the construction of any public drainage ditch within the state of Minnesota under any law of this state, the county board of the county in which the said ditch or any part thereof is located shall keep the same or such part thereof in proper repair and free from obstruction so as to answer its purposes and except as herein otherwise provided pay for the same out of the general revenue fund of the county and to raise the necessary money to reimburse that fund, it is hereby authorized to apportion and assess the cost thereof, upon all lands originally assessed for benefits by reason of the construction of said ditch, said apportionment and assessment to be in the same proportion as was the original assessment for benefits.

Such county board shall make a written statement of such assessments and deliver the same to the auditor of the county who shall put the same upon the next succeeding tax duplicates of said county and who shall make and file in the office of the register of deeds, the lien statement covering the costs and expenses of such repairs in the manner so far as consistent, as provided by Sections 19 and 20 of Chapter 230 of the General Laws of Minnesota for 1905, and such assessments shall be a first and paramount lien upon the lands affected, the same as state and county taxes.

In case such assessment or any part thereof is chargeable against lands in another county then the amount thereof chargeable against such other county shall by the county board of the county which has paid the same, be certified to the county auditor of such other county chargeable therewith and such last mentioned county auditor shall thereupon draw his warrant therefor in favor of and deliver the same to the county treasurer of the county which has paid the same, and such auditor drawing such warrant shall thereupon apportion and assess and file lien for the amount thereof upon all the lands in his said county originally assessed for benefits by reason of the construction of said ditch in the same proportion as was the original assessment for benefits.

The provisions of this section shall apply to all works constructed for the purpose of drainage under any law now or heretofore in force in this state including state ditches. In case of repair of state ditches by the county board the cost of the same shall be paid out of the general revenue fund of the county, and

to raise the necessary money to reimburse that fund, the county board is hereby authorized and empowered and it shall be their duty to appoint viewers to assess and apportion the cost of such repairs and preliminary and other expenses in connection therewith, said assessment and apportionment to be for benefits to all lands which may have been benefited by the construction of said state ditch and of any lateral or spur ditch emptying therein in proportion to such benefits.

All laws of this state in regard to county drainage ditches designating the number and qualification and duties and compensation of viewers, prescribing rules and directions governing the making of assessments of benefits and the manner and time of giving notice of meeting, governing and making, filing and the approval, change and adoption of the final report of the viewers, providing for a hearing thereon, and such other provisions thereof as is necessary and as is adaptable therefor shall govern proceedings for repair of state ditches, and a statement of the assessment for repairs shall be made and such assessment levied and collected in like manner as is hereinbefore in this section provided for the making of a statement of and collecting assessments for repairs of county or judicial ditches. In case the total cost and expenses of said repairs exceeds a sum equal to twenty-five (25%) per cent of the original cost of construction of such ditch, then the moneys to pay for such repairs may be obtained by the sale of the bonds of such county as provided by Section 18, Chapter 230 of the General Laws of 1905 and acts amendatory thereof. In such case the lien for the payment of assessments of benefits shall be payable one-tenth of the principal on or before one year from the filing of the lien statement in the office of the register of deeds and one-tenth each year thereafter until the whole thereof is paid with interest annually and all the laws of the state regarding the issuance of drainage bonds and the liens for benefits and the payment thereof and the filing of liens statement so far as applicable thereto shall apply to the repairs referred to in this paragraph.

Provided, that if the repair of any county or judicial ditch is made necessary or if it shall be necessary to widen or deepen the same in consequence of the construction of lateral or private ditches or in consequence of the construction of other ditch or ditches which connect with or empty into said original ditch or into a lake or lakes which are drained by such original ditch, and which lateral, private or public ditch or ditches are constructed subsequent to and not included in the assessment for such original ditch, and which increases the volume of water to be taken care of by the original ditch or which deposit sediment in the original ditch and thereby contribute to the necessity of such repair, widening or deepening, then the county

board shall appoint three viewers whose qualifications shall be as herein provided and whose duty shall be to first apportion the cost of such repair, *widening or deepening*, and of the expense in connection therewith equitably between the lands benefited respectively by such original ditch and those benefited by such private, lateral or *other ditches constructed as aforesaid*, in proportion to the benefits to such respective ditch systems resulting from the construction of such original ditch and of such lateral, private and *subsequent ditch or ditches*, the same as if such original ditch and such lateral, private and *subsequent ditch* or ditches were originally one ditch system, and such viewers shall then equitably apportion and assess the portion of the cost of such repairs and expenses so determined to be borne by such private, lateral or *other ditches* upon the lands benefited by the original construction of such lateral, private or *subsequent ditch* or ditches or by branches thereto, in proportion to the benefits to such lands resulting from such construction, and shall likewise apportion and assess the portion of such cost determined to be borne by such original ditch upon the lands benefited by the establishment and construction thereof in proportion to such benefits. The fact that such portion of such cost of repair, *widening or deepening*, and such expenses respectively apportioned to such lateral and subsequent ditch system or *systems*, and to such original ditch system is respectively apportioned and assessed against the respective lands benefited thereby, in the same proportion as the respective original assessment of benefits therein, shall in all cases be prima facie evidence that such assessment and apportionment is made in compliance with the provisions and requirements of law.

Such viewers shall perform like duties and be governed by the same rules and restrictions in acting hereunder as is provided by law for viewers in judicial ditch proceedings, and such viewers shall within thirty days after their appointment file their report in writing with the county auditor of the county and such county auditor shall give such notice of the hearing on such report as is provided by law for hearing on engineer's and viewers' report in judicial ditch proceedings. At such hearing the county board shall proceed to consider such viewers' report and adopt or modify the same, and the power and authority of such county board in relation thereto shall be the same as is possessed by the judge at a final hearing on the engineer's and viewers' report in a judicial ditch proceeding under the laws of this state. The same right of appeal from or review of the assessment of benefits and damages and the same procedure in relation thereto shall exist in regard to orders herein as exist by law in the case of county ditch proceedings. After final action by the county board in relation to such assessment, the county auditor shall proceed as is in this section pro-

vided in case such assessment for repairs were made by the county board. The repairs herein provided for shall be construed to include the taking from said ditch of sediment deposited therein, the removal of obstructions therein, the widening and deepening thereof so as to answer its original purpose or so as to provide for additional flow of water caused by other ditches or any other reason, the cutting and removal of weeds or grass from the bottom, sides, banks or right of way of such ditch, and such other changes or alteration therein as will enhance its usefulness for the purpose of drainage, and shall further be construed to include the extension of said ditch to a new outlet when and in case the same is found by the county board to be necessary or advisable."

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 7, 1913.

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#### CHAPTER 180—S. F. No. 894.

*An Act to authorize the repayment to tax payers of any school district in this state of moneys raised by taxation therein for school purposes when the amount so raised through the error of clerk of said district exceeded the amount voted at the annual school election.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Repayment of excessive taxes levied and paid.**

—That in any case where the clerk of any common school district in this state has heretofore, through error and mistake, furnished to the county auditor of the county in which such school district is located, an attested copy of a record showing that said school district voted more money for school purposes than the amount actually voted in said school district in any year for such purposes, and the amount returned through said error and mistake exceeds the sum actually voted by more than the sum of \$300.00, the clerk of said school district may, at any time after the tax therefor has been extended in the way and manner as provided by law, furnish to the county auditor of said county proper evidence of such error and mistake; and if the county auditor is satisfied that said mistake actually did occur he may and is hereby authorized at any time after said tax has been paid into the county treasury, to draw and deliver to each of the tax payers in said school district a warrant upon the treasurer of such county for such tax payers pro rata portion of