

(h) Such lease shall be assignable only with the written approval of the commissioner of conservation endorsed thereon.

The form of the lease shall be approved by the Attorney General.

All moneys received under any such lease shall be credited to the fund to which the land belongs.

Approved April 25, 1955.

CHAPTER 806—S. F. No. 957

[Coded]

An act creating and permitting boards of county commissioners to activate single and multi-county park districts, providing for appointment and election of boards of park district commissioners and prescribing their powers and duties.

Preamble:

Whereas there does exist a real need for large, wooded scenic parks and for access to natural facilities such as lakes and rivers within the State, and

Whereas the growing population and increased leisure time are constantly increasing the need for more and better park facilities where man's basic desire to get out into the open, away from the congestion and bustle of city life, can be conveniently satisfied, and

Whereas in many areas neither city park systems nor the state park system are able to meet this need, and

Whereas prompt action is required if large desirable tracts of land suitable for park facilities are to be preserved in their natural state and acquired at reasonable cost:

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

Section 1. [398.01] **Park districts.** There are hereby created, subject to activities by the Boards of County Commissioners as hereinafter provided, PARK DISTRICTS which are bodies corporate and politic and which, when activated, shall be deemed to be political subdivisions of the State of Minnesota and public corporations. Park Districts shall be of two kinds—single county, which shall be coterminous with a county except that in counties containing a city of the first class such city shall be excluded from the park district, and multi-county,

which shall include parts or all of more than one county but shall not include any city of the first class. No Park District shall be activated under this act until it contains at least part of a county having a population of 350,000 people or more according to the last Federal decennial census preceding such activation or an entire county contiguous to a county having such a population. No Park District activated hereunder shall contain a county now or hereafter containing a city of the first class which occupies more than 30% of the county by area.

Sec. 2. [398.02] Board of park district. Each Park District shall be governed by a Board of Park District Commissioners. The board for single county Park Districts shall consist of seven commissioners. The board for multi-county Park Districts shall be constituted as determined in accordance with Sections 3 and 4.

Sec. 3. [398.03] Commissioners. [Subdivision 1.] The first board of Park District Commissioners for each single county district shall be appointed by the Board of County Commissioners of the county in which the Park District is located as follows: The Board of County Commissioners shall by resolution divide the single county Park District into four election districts which shall be similar in shape and no one of which shall contain more than 5% more area than any other. Following the adoption of such a resolution, the Board of County Commissioners shall appoint as Park District Commissioners one resident of each of the election districts and three residents of the Park District at large, each for a term continuing until his successor is elected and qualifies. The chairman of the Board of County Commissioners may call the first meeting of the first board of Park District Commissioners or they may meet and organize without such a call.

Subd. 2. Subject to the requirements set forth herein and in Sections 4 and 5 the number, qualifications, first meeting and terms of Park District Commissioners for multi-county park districts and the method of their selection and replacement shall be determined by joint resolution adopted separately by the several Boards of County Commissioners for the counties in which the Park District is located. Park Commissioners in such Park Districts shall be appointed in the first instance and when vacancies occur, but in all other cases they shall be elected. Certified copies of the joint resolution adopted by the several Boards of County Commissioners and of any amendments thereto shall be filed with the Secretary of State for the State of Minnesota and shall take effect upon such filing.

Sec. 4. [398.04] Election of commissioners. Except

in the case of the first boards and when vacancies occur before the expiration of a term, Park District Commissioners shall be elected without party designation at the same time and in the same manner as County Commissioners. In single county Park Districts the three commissioners at large shall be elected by all the qualified voters in the Park District while the successors in office to the four commissioners representing the four election districts, whether appointed, candidates for election or elected, must reside when appointed or elected and while serving, in the election district which they represent and shall be elected by the qualified voters residing in such district. Park District Commissioners shall be elected for terms of four years or until their respective successors are elected and qualify, except where a Commissioner is being elected to finish out an unexpired term when election shall be for the balance of such term. Vacancies resulting from the death, resignation or removal of a Commissioner shall be filled by appointment by the Board of County Commissioners, such appointment to be effective only until the first Monday in January following the next general election or until a successor has been elected and qualifies for office. The four commissioners representing the election districts shall be elected at the first primary and general elections after the activation of the district and each four years thereafter and the commissioners elected at large shall be elected at the second primary and general election after such activation and each four years thereafter. The terms of elected commissioners shall commence on the first Monday in January following their election.

Sec. 5. [398.05] **Qualifications of commissioners.** No Commissioner shall hold other public office other than Notary Public. Commissioners must be citizens of the United States and they must reside within the Park District at the time they are appointed or file for office and while serving and within the appropriate election district if so required by sections 3 and 4. All persons appointed or elected to the office of Park District Commissioners shall before entering upon the discharge of their duties severally file a written acceptance and oath of office in the office of the Secretary of State for the State of Minnesota. Commissioners shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties. No Commissioner or any person holding appointment under the corporation shall be interested directly or indirectly in any contract entered into under the provisions of this chapter. No commissioner shall be subject to any personal liability on account of any liability of the corporation.

Sec. 6. [398.06] **Board; officers, powers; meetings.**

At the first meeting of the board and at the first meeting each calendar year, each board shall elect from its membership a chairman and a vice-chairman who shall serve in such capacity for the calendar year, and until their successors are elected and qualified. The chairman, or in his absence, the vice-chairman, shall preside at all meetings. All meetings shall be open to the public. The boards shall preserve order at their meetings, compel the attendance of members and punish non-attendance. The boards shall have power to regulate their own procedure and shall adopt from time to time written rules of procedure.

At its first meeting the board shall adopt a temporary name for the Park District and it shall at a meeting held within six months from its first meeting, adopt by a majority vote of all Commissioners an official name for the Park District.

Regular meetings of the Park District Boards shall be held at least monthly at such times and places as may be prescribed by their rules. Special meetings may be called by the Chairman, or by any two members of a board, by writing filed with the secretary, who shall then mail a notice to all board members of the time and place of such meeting at least two days before such meeting.

A majority of the commissioners shall constitute a quorum for the transaction of business, although a smaller number may adjourn from time to time.

Sec. 7. [398.07] **Primary duties.** Park District boards shall have as their primary duty not the establishment of parks and playgrounds of a local or neighborhood type but rather the acquisition, development and maintenance of large parks, wild life sanctuaries, forest and other reservations, and means for public access to historic sites and to lakes, rivers and streams and to other natural phenomena.

Sec. 8. [398.08] **General powers.** Park Districts shall have all the rights, powers, privileges and immunities of a municipal corporation at common law and they shall be subject to the duties of a municipal corporation at common law. Except as otherwise limited in this act they shall have perpetual succession, may sue and be sued, may use a corporate seal, may acquire by lease, purchase, gift, condemnation or otherwise such real and personal property as the purposes of the board may require and may hold, manage, control, sell, convey, lease or otherwise dispose of such property or its interest therein. The board shall have full authority to exercise all the powers of the District, to make all necessary or desirable contracts, to procure public liability and other insurance protection as may be necessary or desirable, to hire and employ

help and assistance as its needs require, to exercise the power of eminent domain, to enact ordinances and to declare that the violation thereof shall be a penal offense and to prescribe the penalties thereof, not to exceed a fine of \$100, or imprisonment in a village or county jail for a period of not more than 90 days, or both, and in either case the cost of prosecution may be added to the penalties imposed. The board shall have full power and authority to acquire and establish parks and to operate, maintain, protect, improve and preserve a park system and to conduct a recreational program in its parks.

Sec. 9. [398.09] **Specific powers.** Park District Boards in addition to the foregoing general powers shall have these specific powers :

(a) The power to regulate by ordinance the use of the waters of any lake lying within the Park District by all persons, including persons boating, swimming, fishing, skating or otherwise in, upon or about said lake, where such lake is not already subject to overall regulation by a municipal corporation or regulatory body of the State of Minnesota.

(b) The power to acquire lands either within or without the Park District for conversion into forest reserves and for the conservation of the natural resources of the state, including streams, lakes, submerged lands and swamplands, and to these ends may create parks, parkways, forest reservations and other reservations and afforest, develop, improve, protect and promote the use of the same in such manner as is conducive to the general welfare. These lands may be acquired by the board, on behalf of the district, by gift or devise, by purchase or by condemnation. In furtherance of the use and enjoyment of the lands controlled by it, the board may accept donations of money or other property, or may act as trustee of land, money or other property and use and administer the same as stipulated by the donor, or as provided in the trust agreement. The terms of each such donation or trust shall first be approved by the district court before acceptance by the board. If the Park District includes all or part of more than one court district, approval shall be by the district court of the court district having the largest area within the Park District. In case of condemnation the proceedings are to be instituted in the name of the district and conducted in the manner provided in Minnesota Statutes, Chapter 430 and acts now in effect and hereafter adopted amendatory thereof and supplemental thereto. Either the fee or any lesser interest may be acquired as the board deems advisable. All awards not set aside as therein provided shall be a charge upon the district for which its credit shall be pledged. The duties specified to be performed in said sections by the city council, the city clerk and the city

engineer, respectively, shall be performed by the commissioners, the secretary and the superintendent of the district. Appeals to the district court shall be taken to the district court of the county in which the land lies. The notices required to be published shall be published in every case in a newspaper of general circulation published in the county or counties wherein the land lies. All reports and papers required by said sections to be filed with the city clerk shall be filed with the secretary of the district. Unless a lesser estate be designated, an absolute estate in fee simple, unqualified in any way whatsoever, shall vest in the district in every case of taking by the exercise of the power of eminent domain, and such estate shall not be limited or qualified in any way by construction. Nothing herein contained shall authorize the board to:

1. Acquire real estate by purchase or condemnation which is located within the boundaries of an incorporated village or city unless the governing body of such village or city shall have consented thereto by resolution duly adopted, or
2. Acquire real estate by condemnation which is located outside the Park District unless the Board of County Commissioners of the county in which such property is located has consented thereto by resolution duly adopted.

(c) The power, if the board finds that any lands which it has acquired are not necessary for the purposes for which acquired, to dispose of such lands upon such terms as are advisable, including the power to transfer such lands to other public corporations. Where lands which were acquired by condemnation less than 20 years before are to be sold to private parties, the former owners, or their heirs, successors or assigns, shall be notified in writing of the board's intent to dispose of the properties and shall be given 20 days to purchase the property taken from them at such price as the board shall deem fair compensation to the district for such property. The board may lease any of its lands or permit their use for purposes consistent with the purposes for which the lands were acquired upon such terms as are advisable. No such lands shall be sold without the approval of the district court of the county in which the lands are situated.

(d) The power to fix, alter, charge and collect fees, tolls and charges for the use of facilities of the Park District, for services rendered by, or for any commodities furnished by, or for licenses issued by, the board pursuant to ordinances authorized hereunder. All fines collected for any violation of a board's ordinance shall be paid into the treasury of such Park District board.

(e) The power to borrow, make and issue negotiable bonds, notes and other evidences of indebtedness, subject to the provisions of sections 18 and 19 hereof, and to pledge its full faith, credit and taxing power to the payment thereof, and/or to secure the payment of such obligations or any part thereof by mortgage, lien, pledge, deed of trust otherwise, on all or any of its property, contracts, franchises or revenues and to make such agreements with the purchasers or holders of such notes, bonds or other evidences of indebtedness or with others in connection with the same, whether issued or to be issued.

(f) The power to cooperate with or borrow from any governmental organization, state or federal, or from any agency of the state or federal government for any purpose within the scope of the authority of this corporation.

(g) The power to cooperate with any public or municipal corporation, with the counties and with any private or public organization engaged in conservation, recreational activities, protection of the public health and safety, prevention of water pollution, sanitation, and/or mosquito abatement for any constructive purpose, and the power, upon request, to assume control of all or a portion of any existing parks or park lands owned by any county government or municipal corporation in the park district; such control shall be assumed only at the request of and by agreement with the public authority in control of such parks or park lands. Thereupon such parks or park lands may be developed, improved, protected and operated as a park as in case of lands otherwise acquired by the board. Such acquisition or assumption of control or operation of a municipal park system by a Park District shall in no way impair the authority and power of such municipality to levy and collect taxes for park, playground and recreational purposes, all or part of such tax funds to be transferred to the park district for such uses as may be agreed upon between the district and the municipality.

(h) The power to designate employees as police officers within the parks under the jurisdiction and control of the board, and employes so designated may exercise all the powers of police officers within the park lands under the jurisdiction and control of the board. Before exercising these powers, each such employee shall take an oath and give a bond to the state in such sum as the board prescribes for the proper performance of his duties in such respect. The board may contract with municipalities or with the county or counties for the policing of park properties.

Sec. 10. [398.10] Park superintendent, employees.

The board shall, by secret ballot, elect a Park Superin-

tendent to serve as the chief administrative officer of the Park District. Such election shall be for terms of not to exceed two years and the Superintendent shall serve at the pleasure of the board. No person shall be elected Superintendent unless he has had at least ten years experience in business or in public administration, at least five years of which shall have been in a responsible administrative capacity and at least three years in the administration of parks or recreation. The salary of the Superintendent shall be set by the board. The Superintendent or someone designated by him shall serve as Secretary to the board. The chairman and the secretary shall, promptly after their selection, file with the Secretary of State of Minnesota a bond in the penal sum of ten thousand (10,000) dollars, with good and sufficient sureties acceptable to the Board of Park District Commissioners.

The board shall have power to appoint such officers, agents and employees as it deems necessary for the proper administration of the district. The officers, agents and employees shall perform such duties and receive such compensation as the board may determine and shall be removable at the pleasure of the board.

Sec. 11. [398.11] Instruments, execution. Every contract, conveyance, license or other written instrument shall be executed on behalf of the board by the chairman and secretary with the corporate seal affixed if the district has one, and only pursuant to authority from the board.

Sec. 12. [398.12] Ordinances, enactment. The board may, after public hearing held upon two weeks published notice, enact such ordinances as it may deem necessary or convenient to carry out the general and special powers herein granted. It may also, without notice of hearing, adopt such resolutions as may be deemed necessary or convenient to carry out such powers, except where action is herein directed to be taken by ordinance. An ordinance or resolution shall be signed by the chairman, attested by the secretary and published once in one legal newspaper published within the district. Proof of the publication shall be attached to and be filed with the ordinance or resolution. Every ordinance shall be recorded in an ordinance book within 20 days after its publication. All ordinances shall be suitably entitled and shall be substantially in the style: 'The Board of the Park District of.....
Ordains:.....'

Sec. 13. [398.13] Ordinances, enforcement. The board shall have authority to enforce its ordinances and to employ police officers and attorneys for such purpose. Any police officer, constable, sheriff or other public enforcement official

having jurisdiction in the county, in which all or a part of a Park District is located, shall have authority to arrest persons violating ordinances of the board and to serve warrants upon persons accused of violating an ordinance of the board, and to carry out the prosecution in any proper tribunal under such ordinance. Nothing herein contained shall prevent the enforcement within a Park District of any ordinance or regulation of a municipality or county within such Park District which is not inconsistent with the ordinances of the board.

Sec. 14. [398.14] Records, reports. The board shall keep accurate and permanent records of all its proceedings and shall compile and publish reports and information relating to the Park District and to the board's functions and proceedings.

Sec. 15. [398.15] Public highways in park districts. When a public highway extends into or through a park area, or when a public highway forms all or part of a suitable connection between two or more park areas, and it is advisable to make alterations in the route or width of the highway or to grade, drain, pave or otherwise improve the highway, the board may enter into agreements with the public authorities in charge or control of so much of the highway as lies within the park area or which forms the whole or a part of a connecting link between two or more park areas, providing for the doing of such things, under the procedure authorized by law in case of such public authorities, and for the payment by the board of so much of the cost thereof as is agreed upon. This section does not affect the legal status of the highway.

Sec. 16. [398.16] Tax levy, budget. The Park District board, as soon after organization as practicable and on or before the first day of July of each year thereafter, shall prepare a detailed budget of its proposed expenditures during the next fiscal year, other than those to be met by special assessments, bond issues or by revenues described in section 17 and subdivision d of section 9 of this act, which budgets shall in no year exceed eighteen (18) cents per person in the district as determined by the last federal decennial census. But no such assessment shall be made upon the people or property of a city of the first class.

As soon after organization as practicable, and on the first day of July each year thereafter, the Park District board shall certify to the governing body of each township, town, borough, village or city included in the district, the budget adopted pursuant to this section, together with a statement of the proportion of the budget to be provided by such governmental subdivision. The budget shall be apportioned among such subdivisions within the district in the same proportion as their respec-

tive populations bear to the total population of the district, population figures to be based on the last federal decennial census.

For the purpose of this section the governing body of any city means that board, council, commission or officer authorized by law or charter to levy taxes for park and recreation purposes and the governing body of each unorganized township means the Board of County Commissioners of the county in which such township is located.

It shall be the duty of each such governing body in the district to provide the funds necessary to meet its proportionate share of such budget, such funds to be raised by tax levies or other means within the authority of said governing bodies, and to pay the same over to the Treasurer of the district in such amounts and at such times as may fairly be required by the Park District board.

Any such governing body is hereby authorized to levy annually upon all taxable property within its boundaries a tax at the rate necessary to raise, at 98% collection, its proportionate share of the Park District's budget, which tax, except in the case of cities of the first class, may be levied in excess of and over and above all other tax limitations.

All moneys received from said levies shall be turned over by the county treasurer collecting the same to the treasurer of the Park District. All moneys received by the Park District shall be used to carry out the powers and duties imposed on the Park District board by this act and shall not be subject to review or reduction by other boards, commissions or councils.

If the governing body of any subdivision fails before October 1 of any year to pay its proportionate share of the Park District budget for the next fiscal year or to certify to the county auditor a tax levy specifically designated for said purpose, the Park District board shall certify to the county auditor of each county in which such governmental subdivision is located such amount of taxes as is deemed necessary to raise such subdivision's proportionate share of the budget, for collection with and as a part of other taxes on taxable property within such subdivision, which tax, except in the case of cities of the first class, may be levied in excess of and over and above all other tax limitations. No governmental subdivision shall be required to pay a larger percentage of its proportionate share hereunder than the city or cities of the first class in the district shall pay.

The Park District board may by resolution, submit to the electors of the Park District at a general or primary state election the question of raising the limit on the Park District's budget from 18 cents to not to exceed 35 cents per person in

the district. Any resolution providing for an election on raising the budgetary limit shall specify the proposed additional amount per person in the district to be authorized and the number of consecutive years such increase in the limit shall be effective. The resolution shall be certified to the county auditor of each county wherein lies any part of the territory of the district, and the county auditor or auditors shall cause the same to be submitted to the electors residing within such territory at the next ensuing general or primary election on a ballot setting forth the proposed additional amount per person and the number of years such increase shall be effective as provided in the resolution, and shall forward the official returns of the judges of election in the precincts voting on such ballot to the Park District board for canvass, and the increase shall be authorized if approved by a majority of the electors of the district voting on such ballot.

The board may borrow money in anticipation of the collection of all taxes levied in its behalf and issue the negotiable notes of the district in an amount not in excess of 90% of the amount so levied which has not been received by the district at the time of the borrowing. Such notes shall mature not later than March 1 of the year following the year in which the tax levies are to be collected and shall be payable primarily from the proceeds of the levies anticipated thereby, but the full faith and credit of the district shall be pledged to the payment of the notes, and if such levies are not sufficient to pay all principal due and interest accrued thereon the Park District board shall levy for the repayment of the principal and interest on such notes an ad valorem tax in the next ensuing year and for so long thereafter as may be necessary upon all of the taxable property within its corporate limits, which levy may be made without limitation as to rate or amount and shall not be included in applying statutory limitations to other tax levies.

Sec. 17. [398.17] Bonds. The Park District board may by resolution provide for the issuance of negotiable general obligation bonds of the district in the manner specified in Minnesota Statutes, Chapters 429 and 475, except as otherwise provided in this section, but only for the purpose of financing the acquisition and betterment of park properties and facilities or for refunding outstanding obligations of the district, and bonds shall at no time be issued in an amount such as to cause the net debt of the district to exceed five tenths (5/10) of one percent (1%) of the latest full and true valuation, as finally equalized in accordance with Minnesota Statutes, Section 274.13. "Net debt" for the purpose of this act is defined as in section 475.51 except that tax anticipation notes shall be excluded therefrom. No bonds shall be issued in an amount which

would cause the net debt to exceed one tenth (1/10) of one per cent (1%) of such full and true valuation without first obtaining the approval of a majority of the electors voting on the question at an election called in the manner provided in section 16 of this act.

The ballot at any bond election shall state the maximum amount and purpose or purposes of the proposed issue, and no issue shall be invalidated by reason of the inclusion in the ballot of more than one purpose. Taxes for the payment of principal and interest on bonds, whether levied before the issuance thereof or levied subsequently to restore deficiencies in the bond sinking fund, shall not be subject to any limitation as to rate or amount and shall not be included in determining the application of any statutory limitation to other tax levies.

Sec. 18. [398.18] Depositories. All funds under the control of the Park District board are to be kept in depositories selected in the manner provided for the deposit of county funds insofar as those proceedings are applicable. Deposits are to be secured as provided in the case of county funds. The County Treasurer shall serve as the treasurer of the board and in multi-county districts, the County Treasurer of the county containing the largest portion of the district shall so serve. He shall receive and be responsible for all moneys of the district, from whatever source derived, and the same shall be considered public funds. He shall disburse the moneys of the district only on orders made by the Secretary, countersigned by the Chairman, Vice Chairman, or other person authorized by the district showing the name of the claimant and the nature of the claim. No disbursements shall be certified by such officers until the same have been approved by the Commissioners at a meeting thereof. The treasurer shall keep an account of all moneys received and disbursed by him, and at least once a year, at times to be designated by the Commissioners, file with the Secretary a financial statement of the district, showing in appropriate and identifiable groupings the receipts and disbursements since the last approved statement, the moneys on hand and the purposes for which the same are appropriated.

Sec. 19. [398.19] Plan for development of parks. Within 18 months of the activation of a Park District, the board for such Park District shall develop and approve a written plan for development of parks within the district. Certified copies of such plan shall be filed by the Secretary of the Board with the Registers of Deeds for the counties having land within the district and with the Department of Parks of the State of Minnesota. Such plans shall be revised and brought up to date at least every five years.

Sec. 20. [398.20] **Park districts; boundaries, activation.** [Subdivision 1.] Boundaries of Park Districts as created by this statute shall be determined and Park Districts activated as follows:

Application for the creation of a Park District shall be made to the county board or boards of the county or counties within which the district is to be located. The application shall either be signed by one percent of the electors residing within each county or portion thereof to be included within the proposed districts as determined by the number of electors voting at the last preceding general election within such territory, or, in lieu thereof, shall be authorized by resolutions adopted by a majority of the governing bodies, as defined in section 16, of the cities and villages within each county or portion thereof to be included in the proposed district. The application shall contain an accurate description of the territory to be included in the proposed district and when presented to the board or boards of county commissioners shall be accompanied by an accurate map or plat thereof. Where multi-county districts are proposed applications for the various portions of the district shall be presented to the respective boards of county commissioners in which the portions of the district lie.

An application may consist of more than one counterpart, each setting forth the description of the proposed territory of the district and containing the signatures of one or more electors and having endorsed thereon as attached thereto the affidavit of the person obtaining such signatures stating that to the best of his information or belief, they are genuine and are the signatures of duly qualified electors residing within the proposed Park District.

Subd. 2. Upon the filing of the applications provided for in subsection 1, each county board shall fix a time for the hearing of the application which shall be not less than 20 nor more than 40 days after the date of such filing. Notice of such filing and the date of hearing shall be published in a newspaper of general circulation within the proposed district. If there is no newspaper of general circulation within the proposed district, then the notice shall be posted in five of the most public places within the proposed district. The notice shall be published or posted for not less than 15 days prior to the date fixed for the hearing. The hearing may be adjourned from time to time. At a hearing on an application for the creation of a Park District, each county board shall consider and determine the sufficiency of the application and shall hear all arguments for and against the creation of the district. Joint hearings may be held pursuant to notice thereof where the activation of a multi-county district is applied for. If the county board finds the application

to be insufficient, additional signatures or resolutions may be obtained and the application may be resubmitted to the board at any time within six months of the original filing thereof. Signatures or resolutions may be withdrawn at any time prior to the final determination by the board as to sufficiency of the application.

Subd. 3. When the application has been determined to be sufficient the board of county commissioners in single county districts, and each board of county commissioners in multi-county districts shall consider whether or not the designation and activation of the district will be conducive to the general welfare. If a majority of the board of county commissioners in single county districts or a majority of each board of county commissioners in multi-county districts shall determine that it will be, a resolution so stating shall be adopted designating and activating the district. Such resolution shall not be adopted sooner than 90 days after the first hearing is held. The boards may change but not expand the boundaries of proposed multi-county districts from those described in the application at the time of the hearing, and may exclude all territory within any county if the county board of that county disapproves the application. Park Districts when finally activated must include all of one county excluding cities of the first class therein, or parts of more than one county, but the boundary lines of the district as finally ordered by the board or boards shall not divide any existing town or municipal corporation and shall not include any territory situated in any other Park District activated pursuant to this act and shall not include any non-contiguous areas.

Subd. 4. The board of county commissioners on its own motion may, and if requested to do so by petition of one percent of the electors in the proposed district residing within the county, as determined in subsection 1 of this section, shall submit to a referendum of the electors in the proposed district residing within the county at the next general or primary election the following question which shall be worded on the ballot in this way:

Shall a Park District be activated encompassing the following territory: [here insert the designation of each county to be included in the district in its entirety, and of each city, village, borough or town to be included which is outside any such county, and a legal description of any unorganized territory to be included which is outside any such county.] ?

If a majority of the votes cast on this issue in single county districts are "yes" votes, the referendum shall be declared carried and the Park District shall be activated. In multi-county

ty districts a majority of the votes cast on this issue in each county where a referendum is held must be "yes" votes for the referendum to carry. In all cases where referenda carry the county boards shall have 60 days to appoint Park District Commissioners. If they fail to appoint such commissioners within 60 days after the referendum, the governor shall make such appointments. Referenda need be held in only those counties where a petition bearing the required number of elector's signatures is filed or where the Board of County Commissioners orders a referendum.

Once a Park District is activated, referenda may be held on its enlargement as herein provided, but not on its activation.

Sec. 21. [398.21] **Enlargement of districts.** When conducive to the general welfare any territory adjacent and contiguous to an existing Park District, whether located within any county in which the district was created or not, may be annexed to the district under the following procedure: A petition shall be filed with the Board of Park District commissioners requesting such annexation, containing an accurate description of the territory proposed to be annexed, accompanied by an accurate map or plat of the territory, and signed either by one percent of the electors residing within the territory or authorized by resolutions of a majority of the councils of the cities and villages within the area to be annexed. The board shall determine whether the petition is sufficient and whether it is advisable that the annexation be made. If the board determines in favor of the annexation, it makes application to the county board of the county in which the territory is located, setting forth the fact of the filing of the petition and the reasons why it is advisable that the territory be annexed to the district. The board may on its own motion file such petition with the county board. Upon the filing of such petition, like proceedings shall be had as are provided in section 20 upon application for the creation of a Park District. The territory annexed may not include any city of the first class, a part only of an existing town or municipal corporation and shall not include any territory situated in any other Park District activated pursuant to this act unless the Park District board of such district consents to the transfer of such territory.

In the event of the annexation to a Park District of territory located in a county other than the county or counties in which the district was created, the county board of the county in which the annexed territory is located shall exercise, with reference to the annexed territory, the powers conferred upon county boards by section 20 and the auditor and the treasurer of the county in which the annexed territory is located shall

exercise, with reference to taxes levied and collected by the Board of Park District commissioners upon the annexed territory, the powers conferred upon auditors and treasurers by sections 16 through 19.

Sec. 22. In the event that any provision of this act or any application thereof to any facts or circumstances or to any person or any county or other political subdivision shall be held invalid in any legal proceedings, such invalidity shall not affect any other provision or application thereof which can be given effect without the invalid provision or application, and shall not affect the validity of any obligations created, issued or assumed hereunder, and to this end the provisions of this act and the applications thereof are hereby declared to be severable.

Approved April 25, 1955.

CHAPTER 807—S. F. No. 1174

An act relating to Old Age Assistance; amending Minnesota Statutes 1953, Section 256.15, Subdivision 2, and Section 256.33.

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

Section 1. Minnesota Statutes 1953, Section 256.15, Subdivision 2, is amended to read:

Subd. 2. **Payments, limitation.** The manner and amount of old age assistance payments shall be fixed with due regard to the conditions in each case in accordance with the rules and regulations of the state agency, but in no case shall it *exceed \$65 a month*, except for medical, dental, surgical, hospital, nursing, or licensed nursing home care provided however that where the county welfare board determines that the infirmity or physical disability of an applicant or recipient requires board and room in the nature of congregate care but not in need of continual medical or nursing care such board may allow not to exceed \$75 per month providing such care is received from a nonrelative in a licensed boarding care home, subject to the following:

(1) The annual income of any property which is not so utilized as to produce reasonable returns shall be deemed to be the net income which would be available if the property were suitably used. Due consideration shall be given to the current or prevailing conditions affecting the use of such property.