tions, orders, agreements, and certificates relating to the cremation of public obligations and coupons. The provisions of any other law relating to the destruction of public records shall not apply to the cremation of obligations and coupons.

Approved May 23, 1963.

## CHAPTER 834-H. F. No. 1789

## [Coded in Part]

An act relating to watershed districts; amending Minnesota Statutes 1961, Sections 112.43, Subdivisions 1, 2 and 3 and adding a new subdivision to the section; 112.46; 112.49, Subdivisions 1 and 2; 112.50, Subdivision 1; 112.501, Subdivisions 1 and 2; 112.52; 112.53, Subdivisions 1, 2 and 3 and adding a new subdivision to the section; 112.54; 112.57; 112.61; 112.611, Subdivision 1; 112.62, Subdivisions 1 and 4; 112.72; 112.76; amending Minnesota Statutes 1961, by adding sections; repealing Minnesota Statutes 1961, Sections 112.49, Subdivision 5; 112.56; and 112.62, Subdivision 3.

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

Section 1. Minnesota Statutes 1961, Section 112.43, Subdivision 1, is amended to read:

- 112.43 Watershed districts; managers; powers, duties. Subdivision 1. The managers, in order to give effect to the purposes of this chapter may:
- (1) Make necessary surveys or utilize other reliable surveys and data and develop projects to accomplish the purposes for which the district is organized and may initiate, undertake, and construct projects not required to be instituted by a petition under section 112.47.
- (2) Cooperate or contract with any state or subdivision thereof or federal agency or private or public corporation.
- (3) Construct, clean, repair, alter, abandon, consolidate, reclaim or change the course or terminus of any public ditch, drain, sewer, river, watercourse, natural or artificial, within the district.
- (4) Acquire, operate, construct, and maintain dams, dikes, reservoirs, and appurtenant works.
- (5) Regulate, conserve, and control the use of water within the district.

- (6) Acquire by gift, purchase, or the right of eminent domain necessary real and personal property.
- (7) Contract for or purchase such insurance as the managers deem necessary for the protection of the district.
- (8) Establish and maintain devices for acquiring and recording hydrological data.
- (9) Enter into all contracts of construction authorized by this chapter.
- (10) Enter upon lands within or without the district to make surveys and investigations to accomplish the purposes of the district. The district shall be liable for actual damages resulting therefrom.
- (11) To take over when directed by the district court or county board all judicial and county drainage systems within the district, together with the right to repair, maintain, and improve the same. Whenever such judicial or county drainage system is taken over in whole or in part, the same, to the extent so taken over, shall become a part of the works of the district.
- (12) Provide for sanitation and public health and regulate the use of streams, ditches, or watercourses for the purpose of disposing of waste and preventing pollution.
- (13) Borrow funds from any agency of the federal government.
- (14) Adopt rules and regulations to effectuate the purposes of the act and the authority of the managers.
- Sec. 2. Minnesota Statutes 1961, Section 112.43, Subdivision 2, is amended to read:
- Subd. 2. The managers shall annually make and file a report of the financial conditions of the district, the status of all projects and work therein, the business transacted by the district, and other matters affecting the interests of the district. Copies of said report shall be transmitted to the secretary of the state water resources board, the commissioner, and the director. The district court may enforce by injunction or other appropriate order the provisions of section 112.37 to 112.81 and any rule or regulation adopted or order issued by the managers thereunder.
- Sec. 3. Minnesota Statutes 1961, Section 112.43, Subdivision 3, is amended to read:
- Subd. 3. The exercise of said powers by the managers shall at all times be subject to review by the board as herein provided.

The managers shall annually make and file a report of the financial conditions of the district, the status of all projects and work therein, the business transacted by the district, and other matters affecting the interests of the district. Copies of said report shall be transmitted to the secretary of state water resources board, the commissioner, and the director.

- Sec. 4. Minnesota Statutes 1961, Section 112.43, is amended by adding a new subdivision to read:
- Subd. 4. The exercise of said powers by the managers shall at all times be subject to review by the board as herein provided.
- Sec. 5. Minnesota Statutes 1961, Section 112.46, is amended to read:
- 112.46 Overall plan. The managers shall, within a reasonable time after qualifying, adopt an overall plan for projects and improvements within the district for reclamation, drainage, erosion, and flood control, and improvement of lands, soils, waters, forests, wild life, and projects therein. A copy of such plan shall forthwith be transmitted to the county auditor of each county affected, the secretary of the board, the commissioner, the director, and the chief executive official of any municipality affected, and the supervisors of any soil conservation district having territory within the district. The managers shall forthwith cause a notice that such plan has been adopted to be posted at three conspicuous places within the district. Upon receipt of such copy the commissioner and the director shall examine the same and within 20 days thereafter shall transmit to the board recommendations in connection therewith, a copy of which shall be transmitted to the managers, and the county auditor of each county affected, and to the chief executive official of any municipality affected, and the supervisors of affected soil conservation districts. Within 45 days the board shall have a hearing on the proposed plan, the provisions of this chapter relating to notice, time, and place of hearing upon a nominating petition governing. After such public hearing the board shall, by its order, prescribe a project and improvement plan for the district. A copy thereof shall be transmitted to the managers, the county board of each county affected, the commissioner, and the director, and to the chief executive official of any municipality affected, and the supervisors of affected soil conservation districts whereupon said plan shall become the project and improvement plan for the district. Said plan may be amended upon a petition therefor, and a notice and hearing thereon, in the same manner as in the original proceeding.
- Sec. 6. Minnesota Statutes 1961, Section 112.49, Subdivision 1, is amended to read:
  - 112.49 Surveys, plans. Subdivision 1. If it appears to

the managers that the petition is sufficient, that the proposed improvement is for public interest and welfare, and is practicable and in conformity with the project and improvement plan overall plan for projects and improvements of the district, they shall cause to be made, at the earliest time possible, all necessary surveys and plans for the construction of the proposed improvement. The engineer employed designated by the managers shall make a full report to the managers of his findings and recommendations relative to the proposed improvement. which shall contain a statement of If he finds the improvement feasible he shall include in his report a plan of the proposed project including:

- (1) The estimated costs; A map of the area to be improved, drawn to scale, showing thereon: the location of the proposed improvements; the location and adequacy of the outlet; the watershed of the project area; the location of existing highways, bridges and culverts; all lands, highways and utilities affected, together with the names of the owners thereof, so far as known; the outlines of any public lands and public bodies of water affected; such other physical characteristics of the watershed as may appear necessary for the understanding thereof;
- (2) The estimated costs for survey, engineering, and supervision; The estimated total cost of the completion of the project including costs of construction and all supervision and administrative costs of the project;
- (3) The estimated benefits to lands and property which will result from the proposed improvement; The acreage which will be required and taken as right of way listed by each lot and 40 acre tract, or fraction thereof, under separate ownership;
- (4) The area; lands, and property benefited or damaged, together with the names of the owners thereof as shown by the tax records, and Such other details and information to inform the managers of the practicability and necessity of the proposed improvements together with his recommendations thereon.
- (5) The names of all corporations, public or private, affected by the proposed improvement.
- Sec. 7. Minnesota Statutes 1961, Section 112.49, Subdivision 2, is amended to read:
- Subd. 2. The engineer may adopt and approve and include as a part of his report, any project of the state of Minnesota or the United States which is within the district pertinent to the project and may accept any data, plats, plans, details, or information pertaining to such United States state or federal project furnished by to

him by the United States state or federal agency and the engineer shall omit from his survey report those items called for in subdivision 1 if the data furnished by the United States state or federal agency is sufficient for the engineer to make his report without additional survey to meet the requirements of subdivision 1.

- Sec. 8. Minnesota Statutes 1961, Section 112.50, Subdivision 1, is amended to read:
- 112.50 Appraisers, duties. Subdivision 1. Upon the filing of the engineer's detailed survey and report the managers shall, with the least possible delay, appoint three disinterested resident freeholders of the state to act as appraisers. These appraisers shall subscribe an oath to faithfully and impartially perform their duties, and with or without the engineer, shall determine the benefits or damages to all lands and properties affected by the proposed project or improvement, including lands owned by the state of Minnesota or any department thereof, highways, and other property likely to be affected by the proposed improvement or that may be used or taken for the construction or maintenance thereof. Benefits and damages to lands owned by the state of Minnesota or any department thereof held and used for the purposes described in section 106.672 shall be determined subject to the provisions thereof, so far as applicable. The appraisers shall receive \$25 not to exceed \$35 per day and necessary expenses while engaged in the performance of their official duties, to be paid by the district and included in the cost of improvement.
- Sec. 9. Minnesota Statutes 1961, Section 112.501, Subdivision 1, is amended to read:
- 112.501 **Benefited property, determination.** Subdivision 1. The appraisers shall classify the lands found to be benefited. Where the proposed improvement, includes or prays for the construction or improvement of any ditch, stream, river, or watercourse, or any structures for the control or alleviation of damages from flood waters, the appraisers shall be governed by Minnesota Statutes, Section 106.151. In all other proceedings the appraisers shall conform, so far as practicable; to Minnesota Statutes, Sections 111.67 and 111.68.
- Sec. 10. Minnesota Statutes 1961, Section 112.501, Subdivision 2, is amended to read:
- Subd. 2. In all proceedings under this act assessments for benefits against lands or corporations shall be made upon benefits to such lands or corporations by reason of the project or improvement affecting the same. Benefited properties shall include:

- (1) All lands or corporations, including lands owned by the state of Minnesota or any subdivision thereof receiving direct benefits such as drainage, commercial navigation, disposal of sewage or waste material, protection from overflow by flood control improvements, prevention of siltation, control of erosion, or maintenance of lake levels;
- (2) All lands contributing water that are furnished a drainage outlet by the construction or improvement of any artificial or natural drain or watercourse;
- (3) All lands that are not receiving but need drainage and that are furnishing waters that are handled or controlled by the proposed improvement.
- (4) Benefits to the state by reason of the improvement of lakes, streams or other bodies of water as a place for propagation, protection and preservation of fish and other forms of wildlife, which benefits shall be assessable against the state of Minnesota to the extent and in the manner provided for assessments against the state in Minnesota Statutes, Section 84A.55, Subdivision 9, and within the available appropriation.
- (5) Benefits to municipal corporations which occur to the lands in the municipality generally and which may be in addition to special benefits to specific lands within the municipality.
- Sec. 11. Minnesota Statutes 1961, Section 112.52, is amended to read:
- 112.52 **Hearing upon petition and reports.** Upon the filing of the final report of the engineer and the appraisers appointed herein with by the managers, they shall, within 35 days thereafter, by order, fix a time and place within the district for a hearing upon the petition and reports. Due notice thereof shall be given by the managers as herein provided.
- Sec. 12. Minnesota Statutes 1961, Section 112.53, Subdivision 1, is amended to read:
- 112.53 Notice of hearing, contents. Subdivision 1. The notice shall state The managers shall by publication give notice of the pendency of the petition; the time and place for hearing thereon; that the engineer's and appraisers' reports, including the plans and specifications, have been filed with the managers and are subject to inspection. The notice shall contain a brief description of the proposed improvement, together with a description of the properties benefited or damaged, and the names of the owners thereof, the public and other corporations affected thereby as shown by the

engineer's and appraisers' reports; and require all parties interested in the proposed improvement to appear before the manages at the time and place designated in the notice and there present their objections, if any they have, and show cause why an order should not be made by the managers granting the petition and confirming the reports of the engineer and the appraisers and ordering the establishment and construction of the improvement.

- Sec. 13. Minnesota Statutes 1961, Section 112.53, Subdivision 2, is amended to read:
- Subd. 2. The managers shall, by publication, eause notice of the time and place of such hearing to be given to all persons interested. Within one week after the beginning of publication; the managers shall give notice by mail of the time and place of hearing to the director and to each person, corporation, and public body affected by the proposed improvement as shown by the engineer's and appraisers' reports. The managers shall give notice by mail, within one week after the beginning of publication, to the director and to each person, corporation, and public body affected by the proposed improvement as shown by the engineers and appraisers report. The notice shall contain a brief description of the proposed improvement and state: that the engineer's and appraisers' report are on file with the managers and available for public inspection; the time and place of hearing; and that the addressee's name appears as an affected party.
- Sec. 14. Minnesota Statutes 1961, Section 112.53, Subdivision 3, is amended to read:
- Where the improvement affects the lands and properties in more than one county; separate notices shall be prepared and published in each county affected showing only the general description of the proposed improvement and the names and descriptions of the properties affected in the county. Notice by mail as provided in subdivision 2 shall be given. When it is required that the managers acquire land in fee simple estate, they shall, prior to the filing of the appraiser's report, record in the office of register of deeds of the county in which the lands are situated, a notice of the pendency of a proceeding initiated by the managers to acquire the lands, which notice shall state the purpose for which the lands are to be taken. At least 20 days before the hearing, notice of the hearing in addition to that required in subdivisions 1 and 2 hereof shall be served upon owners of the property, in the same manner as the summons in a civil action, which notice shall describe the land, state by whom and for what purpose it is to be taken and give the names of all persons appearing of record or known to the managers to be the owners. The notice shall also state that benefits and damages have

been determined, and that a hearing will be held by the managers at the time and place specified in the notice.

- Sec. 15. Minnesota Statutes 1961, Section 112.53, is amended by adding a new subdivision to read:
- Subd. 4. Where the improvement affects the lands and properties in more than one county, separate notices shall be prepared and published in each county affected showing only the general description of the proposed improvement and the names and descriptions of the properties affected in the county. Notice by mail as provided in subdivision 2 shall be given.
- Sec. 16. Minnesota Statutes 1961, Section 112.54, is amended to read:
- 112.54 Hearing before managers. At the time and place specified in the notice, the managers shall hear all parties interested for and against the granting of the petition and confirming the reports, and. All questions relative to the proposed improvement including jurisdiction, sufficiency of the petition, practicability and necessity shall be determined upon evidence presented at the hearing. Any findings made by the managers prior to the hearing shall not be conclusive but shall be subject to further investigation, consideration, and determination at the hearing. They may order and direct the modification of the plans and specifications engineer's report within the scope of the general overall improvement plan for the district, and the assessment of benefits and damages and amend or change the list of property reported as assessable for the construction and maintenance thereof. If the amended reports include property not included in the original reports, the managers shall adjourn and cause to be published and mailed, as in the original notice, the proper notice with reference to all lands and properties not included in the previous notice. If upon full hearing the managers find that the improvement will be conducive to public health and promote the general welfare, and is in compliance with the provisions and purposes of this chapter, and that the benefits resulting therefrom will be greater than the cost of the construction and damages, they shall make findings accordingly and order and direct the construction of the improvement and confirm the report of the engineer and the findings and report of the appraisers and may by this order authorize the construction of the proposed improvement as a whole or for different parts thereof separately. The managers shall order the engineer to proceed with making the necessary surveys and preparing such plans and specifications as are needed to construct the proposed improvements and report the same to the managers with reasonable dispatch. All persons, parties; or corporations affected by the order may appeal therefrom

- as in this chapter provided. The hearing then shall be recessed to await the engineer's report and receipt of bids, when it may again be recessed to allow compliance with section 18 of this act if said section 18 becomes applicable.
- Sec. 17. Minnesota Statutes 1961, Section 112.57, is amended to read:
- 112.57 Bids. After an order has been made by the managers directing the establishment of each improvement, the managers shall call for bids for the construction of the work and give notice thereof by publication specifying therein the time and place when the bids will be opened for the letting of a contract for the construction of the work. The contract may be let in sections or as a whole, as the managers may direct. Notice thereof shall be published in at least one of the newspapers in the state where such notices are usually published. At a time and place specified in the notice, the managers may accept or reject any or all bids and may let the contract to the lowest responsible bidder, who shall give a bond, with ample security, conditions for the carrying out of the contract. Bids shall not be entertained which in the aggregate exceed by more than 30% the total estimated cost of construction. Such contract shall be in writing and shall be accompanied by or shall refer to the plans and specifications for the work to be done, and prepared by the engineer for the district. The plans and specifications shall become a part of the contract. The contract shall be approved by the managers, signed by the president and secretary thereof, and by the contractor.
- Sec. 18. Minnesota Statutes 1961, Chapter 112, is amended by adding a section to read:
- [112.541] Procedure when contract is not let. If after the receipt of the bids, no bids are received except for a price more than 30% in excess of the engineers estimate as contained in his report, or for a price in excess of the benefits, less damages and other costs, the managers shall follow the procedure described in Minnesota Statutes. Section 106.241.
- Sec. 19. Minnesota Statutes 1961, Section 112.61, is amended to read:
- 112.61 **Funds of district.** Subdivision 1. The moneys of any district organized under the provisions of this chapter consist of:
- (1) Subd. 2. An organizational expense fund, which consists of an ad valorem tax levy, not to exceed two mills on each dollar of assessed valuation of all taxable property within the district or \$20,000 whichever is the lesser. Such funds shall be used for organizational expenses, and preparation of an over-all plan for projects

and improvements. The managers of the district shall be authorized to borrow from the affected counties up to 75 percent of the anticipated funds to be collected from the organizational expense fund levy and the counties affected are hereby authorized to make such advancements. The advancement of anticipated funds shall be apportioned among affected counties in the same ratio as the assessed valuation of the area of the counties within the district bears to the assessed valuation of the entire district. In the event an established district is enlarged, an organizational expense fund may be levied against the area added to the district in the same manner as above provided. Unexpended funds collected for the organizational expense may be transferred to the administrative fund and used for the purposes authorized therein;

- (2) Subd. 3. An administrative fund, which consists of an ad valorem tax levy not to exceed one mill on each dollar of assessed valuation of all taxable property within the district, or \$20,000, whichever is the lesser. Such funds shall be used for general administrative expenses and for the construction and maintenance of projects of common benefit to the district. The managers may make an annual levy for this fund as provided in section 112.611;
- (3) Subd. 4. A bond fund, which consists of the proceeds of bonds issued by such district, as herein provided secured upon the property of the district which is producing or is likely to produce a regular income and is to be used for the payment of the purchase price of the property or the value thereof as fixed by the court in proper proceedings, and for the improvement and development of such property;
- (4) Subd. 5. A construction and maintenance fund, which is to be supplied by: the sale of county bonds; construction loans from any agency of the federal government; and by special assessments to be levied as herein provided to supply funds for the construction and maintenance of the improvements of the district, including reservoirs, ditches, dikes, canals, and other works, together with the expenses incident thereto and connected therewith; Construction loans from any agency of the federal government may be repaid from monies collected by special assessments upon properties benefited by the improvement as herein provided;
- (5) Subd. 6. A preliminary fund, which consists of funds provided as herein specified, and is to be used for preliminary work on proposed works of the district.
- Sec. 20. Minnesota Statutes 1961, Section 112.611, Subdivision 1, is amended to read:

- **Budget: tax levy.** Subdivision 1. 112.611 On or before October 1 of each year the managers shall adopt a budget for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. After adoption of the budget and no later than October 1, the secretary of the district shall certify to the auditor of each county within the district the county's share of such tax, which shall be an amount bearing the same proportion to the total levy as the assessed valuation of the area of the county within the watershed bears to the assessed valuation of the entire watershed district. The maximum amount of any levy shall not exceed one mill on each dollar of assessed valuation of all taxable property in the watershed district or \$10,000; whichever is the lesser that provided for in Minnesota Statutes 1961, Section 112.61 and acts amendatory thereof.
- Sec. 21. Minnesota Statutes 1961, Section 112.62, Subdivision 1, is amended to read:
- 112.62 **District court to create preliminary fund.** Subdivision 1. As soon as the managers are appointed and have qualified, and a petition and bond have been filed with the managers praying for the construction of an improvement within the district, the managers may file a petition with the district court in the county wherein the principal place of business of the district is situate asking that an order be made creating a preliminary expense fund for the district. At least ten days notice of such application shall be given to the auditor of each county affected by the proposed improvement. The fund applied for shall be of a size proportionate to meet the needs of the district; but shall not exceed \$20,000, for preliminary work on the proposed improvement.
- Sec. 22. Minnesota Statutes 1961, Section 112.62, Subdivision 4, is amended to read:
- Subd. 4. Upon receipt of the order of the managers of the district the auditor shall cause to be levied upon such benefited lands and municipalities the assessment authorized by the district court. The managers shall file with the auditor of each county a list of lands within the county affected by the assessment and upon filing thereof; or as soon thereafter as may be necessary; the auditor shall levy such assessments upon the lands and municipalities specified and spread the same upon the assessment roll as in the case of other taxes. The county treasurer shall collect and receipt such assessment and credit the same to the district and deduct from such assessment any sum due to the county and account to the district for all sums remaining. Each municipal corporation The state of Minnesota and any department or political subdivision thereof may

appropriate such sums as are necessary to pay its proportionate share of such preliminary expenses, determined by the managers according to the benefits that will probably accrue to the corporation from the contemplated improvements.

- Sec. 23. Minnesota Statutes 1961, Section 112.72, is amended to read:
- 112.72 Other drainage laws, effect of reference. Whenever reference is made herein to any drainage laws of this state and sections thereof are referred to, the sections and provisions shall, so far as practicable if not inconsistent with Minnesota Statutes, Chapter 112, be treated and construed as having the same force and effect, so far as the provisions of this chapter are concerned, as though herein set forth. Any amendments of such act or acts passed after the effective date of this chapter shall become applicable to this chapter.
- Sec. 24. Minnesota Statutes 1961, Section 112.76, is amended to read:
- Corporate existence of certain districts, termination. 112.76 The corporate existence of any district organized under the provisions of Minnesota Statutes 1953, Sections 112.01 to 112.33, wherein no work has been performed during the five-year period immediately prior to April 23, 1955, shall be terminated unless within one year thereafter such district makes application for authority to continue its corporate existence under the provisions of this chapter. The procedure to provide a record of the termination of a district shall be initiated by a petition from the Minnesota Water Resources Board to the district court of the county in which its principal place of business is situated. Said petition shall contain a statement to the effect that no work was performed during the five-year period immediately prior to April 23, 1955 and that no application was made to continue the districts' operation under Minnesota Statutes, Chapter 112. The clerk of the district court, as directed by the judge, shall fix a time and place for hearing upon the petition. Notice of the hearing shall be given by publication for two successive weeks in a newspaper published in each county having territory within such district. If the court finds that the facts in the petition exist it shall issue an order finding the fact of the termination of the district. A copy of such order shall be filed in the office of the secretary of state.

After April 23, 1955, no new district shall be organized under the provisions of Minnesota Statutes 1953, Chapter 112.

- Sec. 25. Minnesota Statutes 1961, Chapter 112, is amended by adding a section to read:
- Withdrawal of territory. Subdivision 1. Pro-[112.85] ceedings to withdraw any territory from an existing district shall be initiated by a petition filed with the secretary of the board. The required signatures on a petition for withdrawal shall be the same as prescribed for a nominating petition, provided, however, the percentages shall be calculated only with reference to the territory which is proposed to be withdrawn from the district. Such petition shall state that the territory so described has not received or will not receive any benefits from the operation of the district, that the district can perform the functions for which it was established without the inclusion of said territory and that said territory is not, in fact, a part of the watershed. The petition shall request the release of the described territory from the district.

The petition shall be served and the board shall proceed in a manner as prescribed for a nominating petition. The requirements for notices and public hearings shall be as prescribed for the nominating petition.

- Subd. 2. Upon the hearing if it appears to the board that the territory as described in the petition has been not and will not receive any benefit from the operation of the district and that the district can perform the functions for which it was established without the inclusion of said territory, and that said territory is not, in fact, a part of the watershed, the board may issue an order releasing the territory, or any part of said territory, as described in the petition. No lands shall be released which have been determined subject to any benefits or damages for any improvement previously constructed. The territory so released shall remain liable for its proportionate share of any indebtedness existing at the time of the order. Levies on the lands shall continue in force until fully paid. If the board shall determine that the order prescribing the distribution of managers should be amended following the withdrawal of any territory it may so direct in the order authorizing the withdrawal.
- Sec. 26. Minnesota Statutes 1961, Section 112.49, Subdivision 5; Section 112.56; and Section 112.62, Subdivision 3 are repealed.

Approved May 23, 1963.