

pensation of any officers of said counties heretofore mentioned during the terms of said respective officers, nor shall the provisions of this act apply to any of said officers until after the expiration of their present respective terms of office.

SEC. 15. This act shall take effect and be in force from and after its passage.

Approved April 25th 1895.

CHAPTER 302.

S. F. No. 416.

County roads.

95 C 302

97 - 357

95 C 302

83-NW 177

95 C 302
1st - 01

May build
roads.

95 C 302
50-M - 325

Petition—bond

95 C 302
09 - - 18

Viewers—engi-
neer.

Survey.

An act enabling owners of land to lay out and construct public roads, prescribing the powers and duties of county commissioners and other officers relating thereto, and providing for the drainage and repair of the roads, constructed under this act.

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

SECTION 1. That the board of county commissioners of any county in the State of Minnesota may at any session of such board cause any road to be constructed within their county wherever they shall deem such road to be of public benefit or utility.

SEC. 2. That before the board of county commissioners of any county shall establish any road there shall be filed with the auditor of said county a petition, signed by the owner or owners of more than one-fourth of the land which would be liable to be assessed for the expense of the construction of the same, giving a general description of the proposed starting point, route and terminus of said road; and one (1) or more of such petitioners shall give a bond, with good and sufficient sureties, payable to the county, to be approved by the auditor, conditioned to pay all expenses in case the board of county commissioners shall fail to establish said proposed road.

It shall be the duty of the board of county commissioners at their first general or special meeting held after such petition shall have been filed with the auditor, to appoint one (1) of their number, together with two (2) resident freeholders of said county not interested in the construction of the proposed road and not of kin to any parties interested therein, as viewers, and also a competent civil engineer to survey said proposed line of road as herein provided.

SEC. 3. The county auditor of said county shall thereupon issue to said viewers a certified copy of said

petition and the order appointing them as viewers, and they shall proceed, with the engineer appointed as provided in the preceding section, to make a complete survey of the line of the proposed road, and of any ditch or ditches or drains already constructed or of any water course on the line of such proposed road.

And they shall set stakes or monuments at each one hundred (100) feet on the line of such road, ditch or ditches and they shall estimate the number of cubic yards of earth to be placed on said road between each one hundred (100) foot stakes and in each case the estimated cost thereof.

They shall also specify the width on the top and at the bottom of the embankment or excavation and the depth of cut or fill, as the case may be, at each one hundred (100) foot stake along the line of such road or said ditch or ditches.

They shall report all lands actually damaged by such road and ditch or ditches, and the estimated amount of damages to each tract, giving a description thereof, and the names of the owners as far as they can; and also, a description of all lands benefited by said road or ditch or ditches lying within one (1) mile of the center of said road, and estimated amount that each of said tracts of land will be benefited.

Report—estimated damage.

They shall also make an estimate of the entire cost of the construction of such road and ditch or ditches as herein provided, and of the damage caused thereby, furnish to and file with the county auditor an itemized account of their expenses, with any recommendation they may deem pertinent, at least thirty (30) days before the next regular or special session of said board of commissioners.

SEC. 4. Such road shall be at least four (4) rods wide, and the central portion thereof shall, when necessary to make a good road, be turnpiked and drained in such manner as the viewers and engineers may determine and recommend.

Width.

SEC. 5. Such road may run across or over any other road already constructed or upon same for any distance, when necessary.

Where to run.

SEC. 6. When the auditor receives such report he shall set a time for hearing said petition and report, which shall be at the next regular or special session of said board of commissioners, held not less than thirty (30) days after the filing of said report; and it shall be the duty of the auditor to cause a notice to be given, by publication, for three (3) successive weeks in a newspaper printed and published in said county, and by posting printed copies thereof in three (3) public places

Notice—hearing—determination.

in each township where the proposed road is located and one (1) at the front door of the court house in said county, of the hearing of said petition and report, and of the time set for the hearing thereof, which notice shall briefly state where such road commenced, its route and terminus, together with the names of the owners of lands lying within one (1) mile from the center of such proposed road on either side thereof, and the names of owners of land benefited by any ditch or drain which said viewers and engineer report necessary to make in the laying out and construction of said road (said names of owners in both cases to be the same as appears in the county tax duplicate of said county) and a description of the land damaged by said road or ditches, as appears in the viewers' report.

After hearing said report the county commissioners may establish said road, ditch or ditches, and may, in their discretion, advertise and let the work as provided in section ten (10) of this act.

The provisions of sections four (4) five (5) nine (9) eleven (11) twelve (12) thirteen (13) fourteen (14) fifteen (15) sixteen (16) seventeen (17) eighteen (18) and nineteen (19) of this act shall apply to any road or ditch constructed as provided in this section.

Powers of commissioners.

SEC. 7. If upon said hearing the board of commissioners find such proposed road will be a public benefit or convenience and practicable, they may, in their discretion, establish the same as specified in said viewers' report, and said commissioners may at said hearing modify the report of the viewers as to benefits assessed or damages allowed, increasing or diminishing the same, or review any other matter connected therewith and call witnesses or view the premises at their option.

Appeals.

SEC. 8. Any person or corporation aggrieved may appeal from any final order or judgment of the board of commissioners made in the proceedings and entered upon the record determining either of the following matters, viz.:

First—The amount of damages allowed to any person or corporation.

Second—Whether where ditches are constructed the estimated benefit to each tract of land is greater than the actual benefits to be derived therefrom.

Said appeal shall be taken and prosecuted in the manner provided for appeals under the general drainage law of eighteen hundred and eighty-seven (1887), being chapter ninety-seven (97), of the laws of eighteen hundred and eighty-seven (1887), so far as the same may be applicable.

SEC. 9. When damages are awarded to any person or persons or corporations, as provided by this act, the board of commissioners shall order the same to be paid out of the county treasury, on warrants to be issued to the person or persons or the corporations entitled thereto, and to be dated and become due and payable immediately after the letting of the contracts by the auditor, as hereinafter provided.

Damages—
how paid.

And in case the proceeding had in relation to the laying out or establishing such road shall be declared void and such proceedings set aside and vacated by the judgment of any court prior to the letting of the contract by said auditor, all such warrants shall thereupon become null and void and shall be returned to the auditor for cancellation.

SEC. 10. When such road is established and damages settled, the auditor shall at once advertise for bids for constructing said road, and any ditch or ditches, or drains which may be necessary to drain said road (which said ditch or ditches or drains may run along or away from said road to connect with any other ditch or ditches already constructed, or into any water course), in sections as the commissioners may order, in some newspaper printed and published in said county, for three (3) consecutive weeks; and shall, within thirty (30) days from the time said road is finally established, let said work to the lowest bidder who can furnish good and sufficient bond, in double the amount of his bid, which bond shall be conditioned to pay all damages sustained if said work is not done as specified or within the time specified, which time shall be as short as practicable to insure good work, and shall be determined by the commissioners in their order establishing said road said commissioners shall contract in the name of the county, and said bond shall be given to the county.

Bids—bonds—
contract.

SEC. 11. It shall be the duty of the county surveyor or civil engineer and one (1) member of the board of county commissioners, to be designated by said board on being notified by the contractor that his contract is completed, to thoroughly inspect the work done under said contract; and if they find it completed according to contract and the specifications therefor they shall accept it and give to the contractor a certificate of acceptance briefly describing said road, so that said contract can be identified; and upon presentation and surrender of such certificate by said contractor to the auditor, the said auditor shall draw an order on the county treasurer of said county for the full amount of the contract price for said work; and all such orders shall be

Inspection—
payment.

paid out of the fund to be provided therefor by the said board of commissioners as hereinafter specified.

Said orders shall become due and payable out of said fund at once; and if there shall be no cash in said fund to pay for said orders when the same are presented, the county treasurer shall indorse on said orders "Not paid for want of funds," and date and sign such indorsement, and the amount of said order shall draw interest at the rate of six (6) per cent per annum until called in by said treasurer.

Compensation
of surveyor.

SEC. 12. The surveyor or engineer shall receive the sum of four (4) dollars per day for every day he is necessarily engaged in performing the duties required of him by this act; the viewers shall receive three (3) dollars per day for each and every day they are necessarily engaged in performing the duties required of them, and they may hire at reasonable prices such help as may be necessary in the performance of their duties; the county auditor of such county shall receive compensation for his services under this act, as the board of county commissioners shall determine, and such compensation shall be in addition to all sums allowed by law at the time of the passage of this act.

The fees and compensation provided for in this act shall be audited, examined, allowed and paid upon the order of the board of county commissioners.

Bond may be
issued.

SEC. 13. The board of county commissioners are hereby authorized to issue bonds of their said county in such sums only as may be necessary to defray the expense incurred in locating, establishing and constructing any road and ditch under this act, said word "expenses" to be construed to mean and cover every item of cost of such road and ditch or ditches from its inception to its completion, and said county to be reimbursed as hereinafter provided.

Said bonds may be issued as soon as said expense can be ascertained, and shall bear interest at a rate not exceeding six (6) per cent, and shall be payable on or before ten (10) years, at the option of said board of county commissioners.

The board shall have the power to sell said bonds as they shall deem best for the interest of said county; but they shall not sell the same at less than par value.

As soon as said bonds are sold they shall order the treasurer to pay all outstanding orders issued in pursuance of this act out of the funds received from the sale of said bonds, and said commissioners are hereby authorized and empowered to transfer from such fund to the general fund of said county all money paid out by said treasurer for damages awarded under this act

and all other sums allowed by this act in locating and establishing such road, ditch or ditches.

Said commissioners are also empowered to transfer from said general fund any surplus money that may be in such general fund, sufficient to pay said damages and expense of locating and establishing such road and ditch or ditches.

SEC. 14. At the next assessment of taxes after any bonds are issued in pursuance of this act, the board of county commissioners shall for the purpose of paying said bonds, levy a tax on all lands lying within one (1) mile from the center of said road, except what is actually damaged by such road, and all land benefited by any ditch, or ditches constructed under this law in proportion to the benefits assessed by said viewers, equal to one-tenth (1-10) the amount of said bonds and one (1) year's interest thereon less the amount levied on said land for that year for general road and bridge purposes which tax shall be collected as other county taxes are collected; and each succeeding year a tax equal to one-tenth (1-10) of the amount of said bonds and one (1) year's interest thereon less the amount of taxes levied on said lands for that year for general road and bridge purpose shall be levied and collected in like manner; until said bonds and the interest thereon are fully paid.

Tax to pay
bonds.

SEC. 15. That all the money arising from the taxation of said lands levied in each year for general road and bridge purposes (not exceeding the assessment for the bonds and interest for that year) shall in each year be applied to the payment of interest and principal on said bonds until said bonds and interest thereon are fully paid, and any money remaining after such funds are so applied be paid into the town treasury each year.

Proceeds—how
applied.

SEC. 16. No error or omission in proceedings under this act shall affect the validity thereof.

Errors.

SEC. 17. When any road is constructed under this act it shall be kept in repair as any township or county road is kept in repair.

Repairs.

SEC. 18. That all lands, assessed as provided for in this act, for the purpose of constructing any highway or road shall be exempt from the city, village or township road and bridge tax voted at the annual election under general statutes of 1878, chap. 11, sec. 49 and known as the road and bridge fund during the time of the assessment for the payment of said bonds and interest.

Exemption.

Provided that said road and bridge tax does not exceed the amount assessed for the payment of said bonds and interest for that year.

SEC. 19. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 20. This act shall take effect and be in force from and after its passage.

Approved April 26th, 1895.

S. F. No. 450.

CHAPTER 303.

Townsite trusts.

An act to vest in the district courts all trusts relating to townsites heretofore vested in any judge of said court.

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

Vested in district court.

SECTION 1. That wherever by virtue of any statute the trust under the townsite act of congress of May 23rd, 1844, may have been conferred upon or vested in any judge of the district court of this state, the same shall henceforth be conferred upon and vested in such district court, to be exercised by any of the judges of said court within their proper districts.

Confirming acts.

SEC. 2. That all acts of or before any of the judges of said court heretofore done in the course of proceedings for the execution of such trust under the law of congress aforesaid, shall be deemed to be of the same effect and validity as though such trust had been theretofore in terms legally conferred upon and vested in said courts to be exercised by any of the judges thereof.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved April 25th, 1895.

S. F. No. 612.

CHAPTER 304.

Jurors' fees.

05 C 304
02-M - 283
04-NW 813

An act to regulate the payment of grand and petit jurors' fees and mileage in the district courts of the State of Minnesota and to make the same equal and uniform in all the counties throughout the state.

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

92 00.

SECTION 1. Each grand and petit juror shall be entitled to two dollars for each day's attendance upon any district court in any county within this state and ten cents for each mile traveled in going to and returning from the said court; the distance to be computed by