

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

Approved April 2, 1921.

CHAPTER 154—S. F. No. 283.

An act to amend Section 880. General Statutes of Minnesota 1913, as amended by Chapter 206 Laws 1917 and Chapter 123 Laws 1919, relating to the clerk hire in county treasurer's office in certain counties of this state.

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

Section 1. **Clerk hire in office of county treasurers.**—That Section 880 of the General Statutes 1913, as amended by Chapter 206 Laws 1917 and Chapter 123, Laws 1919, be and the same is hereby amended so that said section shall read as follows:

Section 880. In each county of this state having an area of less than 2,500 square miles and which now has or may hereafter have an assessed valuation of more than twenty-five million dollars (\$25,000,000) and less than forty million dollars (\$40,000,000) according to the assessment of the last preceding year the county treasurer shall be allowed for clerk hire one-twelfth of one mill for each dollar of such assessed valuation. Such allowance for clerk, shall be paid monthly out of the county treasury upon order of the county auditor. Provided that the provisions hereof shall not apply to any county where the salary of the County Treasurer is fixed by special law, provided that the provisions of this bill shall not apply to any county in this state having a population of more than fifty thousand and less than seventy-five thousand, according to the last federal census. Provided further that in any such county which now has or may hereafter have more than forty-five thousand (45,000) and less than seventy-five thousand (75,000) inhabitants the county board of such county is hereby authorized to allow the treasurer additional clerk hire in an amount not to exceed one thousand dollars (\$1000) per annum.

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

Approved April 2, 1921.

CHAPTER 155—S. F. No. 146.

An act entitled an act to authorize the county board of the several counties in this state under the condition named in this act to make all necessary orders directing the improvement hereinafter provided for, to secure the removal of trees, stumps and other like material from land suitable for cultivation and for the prevention of

forest fires and the drying up of land and improvement of the general welfare, to provide the fund therefor and to levy the cost for the construction of such improvement upon the lands benefited.

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

Section 1. Definitions.—Wherever the term “public health” is used in this act it shall be construed to include any act or thing tending to improve the general sanitary condition of the country, securing the drying up of wet or unsanitary portions of the land, the removal of trees, brush, stumps or other similar substances that prevent the drying up of said land and the use thereof for cultivation; and wherever the term “public welfare” is used in this act it shall be construed to extend to and include any act or thing tending to improve or benefit the general public either as a whole or any particular part or community and shall include any act or improvement that will consist of the removal of trees, stumps and brush so as to prepare for cultivation and use any considerable area of land otherwise not suitable for cultivation, and especially to improve and increase the productivity of such land and aid in the control of forest fires.

Wherever the term “person” is used in this act and not otherwise specified, it shall be taken to mean and include person or persons, firm, co-partnership, association or corporation other than public or political subdivisions; and wherever the term “public corporation” or “municipal corporation” shall be used the same shall be taken to mean counties, townships, school districts or other political subdivisions of the state.

Wherever the term “county board” or “county auditor” is used in this act or any proceeding hereunder, the same shall be construed to mean the county board or the county auditor respectively in the county in which the petition is filed.

Wherever the term “improvement” is used in this act, it shall be understood and construed to mean and include any act, contract or proceeding under the provisions of this act providing for and relating to the removal from land of trees, brush, stumps or other similar obstructions to its use for agricultural purposes.

Sec. 2. County boards may improve property for fire protection.—It is hereby declared to be the purpose of this act to grant to the county board of the several counties of this state within their respective counties, jurisdiction to exercise all the power and authority by this act contemplated relative to the prevention of forest fires and the improvement and preparation of land within their county suitable for agricultural purposes, by the removal from such land under the terms and conditions herein provided of trees, brush, stumps and other similar substances which contributes to the danger of forest fires preventing or interfering with the use of said land for agricultural purposes and letting contracts therefor, and

cause to be constructed the improvement hereinafter specified, and to levy and assess the cost of such improvement including all expenses connected therewith against the land benefited in proportion to the benefits received, and to issue bonds of said county for the purpose of providing funds for the immediate payment therefor or as hereinafter provided.

Sec. 3. Petition must be filed—Bond.—Before any improvement authorized by this act shall be ordered and cause to be constructed by the county board of any county, there shall first be filed with the county auditor of such county, a petition signed by two or more parties owning land in said county and described in said petition, which petition shall include the owners of not less than four hundred (400) acres of land in said county affected by the proposed improvement suitable for agricultural use and not less than one hundred (100) acres of which is to be improved under the provisions of this act therein describing each tract of land a portion of which is to be improved by 40-acre tracts or by number of lots as designated under government survey, therein specifying the number of acres of each tract that is proposed to have improved which shall be not less than five (5) nor more than twenty (20) acres in each 40-acre tract and a proportionately less amount in smaller subdivisions, and shall set forth therein the nature of the title of the petitioner to each particular tract in general terms specifying whether said land is held by the petitioner as owner or under contract, and if the latter, with whom, and the balance remaining unpaid of the purchase price. Said land shall be so located in the same locality or part of the county as near as practicable so as to affect a general improvement of the public health and general welfare of the territory affected but not more than forty (40) acres in any quarter section owned by the same petitioner shall be improved under the provisions of this act. Said petition shall further set forth the nature and the condition of the land, the material to be removed, the necessity therefor, and the improvement and betterment that will result to the land and the community therefrom, and that said improvement if ordered and constructed will result in the improvement of the public health and general welfare of that community assigning the reasons why and will prepare the land therein described for use and occupation for agricultural purposes and that in the absence of said improvement said land cannot be so used; that the construction of said improvement will result in the development of the community and promote and increase those conditions that will render that locality suitable for habitation and will result in the development of social and educational conditions. Upon the filing of said petition duly verified with the county auditor of said county, together with a bond by said petitioners or by one or more of them, or some one in their behalf, with sufficient security in a sum of not less than five hundred (\$500) dollars conditioned to hold the county

harmless from all expense in the event the improvement petitioned for is not granted, the county auditor shall designate such proceeding as "county land improvement No. ——" and in all subsequent relation thereto, said proceeding may be designated and referred to by such title and number.

Sec. 4. Filing of petition—Survey—Report.—Upon the filing of the petition and bond as provided in section 3 of this act with the county auditor of any county containing land suitable for improvement under the provisions of this act, said county auditor shall notify the county board of said county, who shall within thirty (30) days thereafter, appoint a competent civil engineer and direct him to proceed to examine the land described in said petition and make the necessary surveys to enable him to report and file with the county auditor of said county a plat, therein describing each 40-acre tract or governmental lot described in said petition and mark thereon the portion of said land proposed to be cleared and improved as described in said petition, and shall as a part of his report describe the kind of trees, brush, stumps or other similar material located upon said land and proposed to be removed by said proceedings, together with his estimate of the cost thereof, and the probable value of such material if any, when removed, and shall accompany his report with specifications as to the manner of performing and completing said improvement by the contractor. He shall also specifically describe the nature of the soil of each tract and any other conditions affecting the value, location, or use of said land, and especially the agricultural use. Said report shall be in tabulated form and shall furnish said county board with an estimate of the cost of the improvement of each particular tract of land described, which report by the engineer shall be filed with the county auditor of said county within thirty (30) days after his appointment, unless for good cause shown further extension of thirty (30) days is granted him by the county auditor, provided said engineer before entering upon his duties shall execute to the county board a bond in the sum of one thousand (\$1000) dollars conditioned for the faithful performance of his duties.

Sec. 5. Appraisers—Report.—At the time of the appointment of the engineer as provided in section 4 of this act by the county board of within thirty (30) days thereafter, said board shall appoint three appraisers, residents of the State of Minnesota, but not interested in any of the land described in said petition or affected by the proposed improvement, who, upon the filing of the engineer's report or within ten (10) days thereafter, shall be furnished by the county auditor with a copy of such report and shall after taking the oath as such appraisers to faithfully perform their duties in making said appraisals and report, shall personally visit the several tracts of land and examine the trees, brush, timber or similar material thereon to be removed, and especially to examine the nature and quality

of the soil and its adaptability for agricultural purposes and the effect of fire prevention resulting from such improvement, and shall within thirty (30) days from the date of their appointment or from the date of filing the engineer's report make and file in the office of the county auditor a tabulated statement and report, therein describing each 40 acre tract or governmental lot described in the petition reporting the condition thereof and the amount thereof already cleared or under cultivation; the amount proposed to be cleared; the value of said land at the time of the appraisal; the value after the completion of said improvement; and the aggregate benefit that will result to said 40 acre tract or governmental lot in consequence of said improvement; and shall specifically report the nature of the soil with reference to its adaptability for agricultural purposes and whether the same is sandy, stony, or possesses other characteristics affecting its value or use for agricultural purposes, and shall by said report show the total cost of such improvement and the total benefits that will result therefrom, together with any other facts affecting the value or use of said land or the advisability of the proposed improvement.

Sec. 6. **Hearing—Notice.**—Upon the filing of said report with the county auditor of said county, he shall within ten (10) days thereafter fix a date for a final hearing for said petition and engineer's and appraisers' report and call a special meeting of the county board of said county for such date by giving notice as required by law therefor, which date shall be not less than thirty (30) days from the date of said notice and shall specify the time and place for the hearing upon said petition and the report of said engineer and appraisers and require all parties in any manner interested in said land or owning any interest in or lien thereon, to show cause before said county board at the time and place specified in said notice why the order should not be made, confirming the report of the engineer and appraisers and ordering and directing that the improvement petitioned for be made and fix and determine the amount and extent of such improvement and the amount and value of the benefits as shown by the appraisers' report together with any damages if any, shall result to any land in consequence of said improvement, which notice shall be served by publication for three successive weeks in any legal newspaper published in said county, which newspaper shall be designated by the county auditor; said notice shall contain the names of the owners as shown in the petition, together with a description of the land by 40 acre tracts or governmental lots; the amount of the estimated benefits and shall state that the engineer's and appraisers' report has been filed in his office subject to inspection by any parties interested, copies of which notice shall be mailed by the county auditor to all parties named in said petition at their last known address at least fifteen (15) days prior to date of said hearing.

Sec. 7. Rehearing on defective notice—Publication of notice.

—In all cases in which for any cause said notice shall not be given or is legally defective as given, the auditor shall fix another date for hearing in accordance with the provisions of this section so that the hearing upon the petition and the engineer's and appraisers' report may be heard at the earliest possible date at a special or regular meeting of said county board, and whenever any final order of the county board in any case shall have been or shall be set aside, annulled, or declared void by any county by reason of failure to give proper notice of said hearing, the county board may at any time within one year after the rendering of such judgment upon application of the petitioners, order a special hearing before said county board upon said petition and reports, and thereupon the county auditor shall cause a notice in due form as herein required, to be published and mailed as hereinbefore specified for rehearing upon such petition and reports and at such hearing the county board may proceed and make its findings and orders as herein provided as in cases of original hearing.

Sec. 8. Jurisdiction of county board—Dismissal of proceedings.—Upon due publication and mailing of notice of hearing as provided in the last section, the county board of said county shall have jurisdiction of all matters named or referred to in said petition as originally presented, or as afterwards amended, and of each tract of land, and of all parties in any manner interested therein named or described in said petition and said engineer's and appraisers' report, together with all persons, parties or corporations having or owning any interest in, or owning any mortgage lien contract upon said lands described in said petition or reports, and the said county board may and hereby are authorized at the time and place specified in said notice to receive all evidence offered relative to matters contained in said petition and said reports including the amount of benefits reported by the appraisers, and said county board, shall have authority to amend or modify such reports and may amend or permit the amendment of said petition to conform to any requirements of the statute and may order stricken therefrom and from the report of the engineer and appraisers any land found by the county board not suitable for agricultural purposes or for other reasons not suitably adapted to said improvement, and the striking off of any such land or the names of any such petitioners or the withdrawal thereof, shall not in any manner affect the jurisdiction of said county board, but the petitioners may at any time at or before the date of hearing upon the payment of all costs and expenses cause the dismissal of said proceedings.

Sec. 9. Board may ask for corrected reports.—If at said hearing after the presentation of the evidence on behalf of all parties interested, it shall appear to the satisfaction of the county board that the appraisers have made unequal or improper assessments or esti-

mate of benefits, or for any reason the estimate or benefits as reported by the appraisers are not fair and just, or are not in the proper proportion, or that the engineer's report is incorrect or for any reason not according to facts, said board may refer back to the appraisers and the engineer or either of them, such reports for correction and amendment and said board may at said hearing order them amended to conform to the facts and upon such amendment being made the amended report shall be treated as the final report of the engineer or appraisers as the case may be.

Sec. 10. Findings of board—May order improvement.—If at said final hearing or adjournment thereof, the county board from the original or amended report of the engineer or appraisers and from such other evidence as may be produced, shall find that the engineer's report and the appraiser's report have been made and all other proceedings have been had and taken in accordance with the provisions of this act, and that the total cost of this improvement including all costs and improvement and damages, if any, does not exceed 90 per cent of the total estimated benefits, and that said improvement will be of public utility and benefit or will aid in preventing forest fires, promote the public health and general welfare of the community and will result in the agricultural benefit and improvement of said community, and that the report of the engineer and appraisers either as originally presented or as subsequently corrected are true and conform to the facts, then said county board may by an order containing such findings, establish and order such improvement in accordance with said petition and said report and such order adopting and approving the report of said engineer and appraisers and ordering constructed said improvement, shall fix and determine the rights of all parties or corporations connected with or affected by said proposed improvement in accordance therewith subject to the right of appeal as herein provided.

Sec. 11. Appeal—Grounds for.—Any party or corporation aggrieved thereby may appeal from the order of the County Board provided for in section 10 determining either of the following matters:

First:—The amount of benefits to any tract of land or any public road.

Second:—The amount of damages allowed to any person or corporation, or assessed to any tract of land.

Third:—Refusing to establish or order the improvement petitioned.

They may appeal to the district court in and for said county under the conditions and in the manner provided for in section 5534 General Statutes 1913, and such appeal shall be determined with like effect as provided in said section.

Sec. 12. Bids—Contracts.—Within ten (10) days after the filing in the office of the county auditor of the order of the county

board establishing and ordering such improvement under the provisions of this act, the county auditor shall give notice of a time and place of receiving bids for the making of said improvement in accordance with the provisions of section 5536 General Statutes of 1913 and the provisions of said section so far as applicable, shall relate to the governing and receiving of bids and the letting of contracts for the making of said improvement and said county auditor may let said contract in separate tracts, or let one contract for the whole or for the clearing of land on the whole of any number of the tracts of land described in the order, or in the engineer's or appraisers' report, which contract shall specifically provide for the removal of the trees, brush, stumps and other similar material located on each tract of land and shall specify what disposition shall be made thereof, in accordance with the direction of the county board, and the county board may order and require that there shall be included in said contract, a provision for the burning or destruction of the material, its removal or portion thereof, or for the use of said material where use can be made thereof, and where the material removed from any tract of land can be utilized for any purposes that will result in an advantage to the owner of such land, the county board shall in said contract provide for the making such use of the trees or other products, the title to which upon severance from the land shall pass to the county, and all sums so realized shall be credited to the land from which it is taken and the assessment against such tract of land lessened to that extent. To prevent the return of the land to its wild state and the consequent danger of forest fires, the county board may require that the land so cleared shall be seeded to grasses and clover, when it appears that the owner does not contemplate cropping the land so cleared at the next planting season following the completion of the clearing contract. The cost of such seeding shall be assessed against the land so seeded.

Sec. 13. Engineer to supervise work—Partial payments.—It shall be the duty of the engineer from time to time as occasion may require, to visit the premises and examine the work performed by the contractor and where a considerable amount of work has been done, he shall issue a certificate to the contractor and a duplicate to the county auditor, therein certifying the amount of work that has been done by the contractor on each particular tract and the proportion of the whole with reference to that work, that has been performed and the value thereof, and upon the filing by the contractor of such certificate with the county auditor, the county auditor shall draw his warrant in favor of the contract not to exceed 75 per cent of the total amount of the work done since the last report and when the contractor shall notify the engineer that he has completed the work, the engineer shall examine all tracts included in the contract and report to the county auditor the facts as he finds them and if he finds said contract to be completed in accordance with the terms

thereof, he shall so certify, whereupon the county auditor shall notify the owners of said land that a hearing will be had upon the report of the engineer that said contract is completed before the county board at the next meeting following the filing of such report, but not less than fifteen (15) days therefrom at which time all parties interested may appear before said county board and if said county board shall find said contract fully completed, they shall order the payment of the amount of the contract remaining unpaid.

Sec. 14. Bonds to defray expense—Limit of indebtedness.—The county board of each and every county wherein any improvement is ordered constructed under the provisions of this act, are hereby authorized to issue the bonds of their respective counties in such amount as may be necessary to defray in whole or in part, the expense incurred or to be incurred in the establishment and completion of said improvement together with all expenses connected therewith and the provisions of section 5542 General Statutes of 1913 shall apply thereto, and the county board is hereby authorized to exercise all the authority specified in said section in providing the funds for the completion of any improvement authorized by the provisions of this act, and for all purposes of this act wherever the term "drainage ditch" or "drainage bond" appears in said section, the same for the purposes of this act should read; "improvement" or "land improvement bond" as the case may be. In the event that the bonds authorized under the terms of this act are not sold at advertised sale, the county board may let contracts as herein provided whenever the contractor is willing to accept payment for such contract in bonds at par. Provided that no county may incur an indebtedness for the purpose of this act in excess of 10% of its taxable valuation, exclusive of money and credits.

Sec. 15. Ditch laws to apply.—At as early a date as possible after letting the contract or contracts under any improvement authorized by this act and as soon as the cost of said improvement and expenses connected therewith can be ascertained, the auditor of the county shall make in tabular form a list and statement as provided by section 5543 of the General Statutes of 1913, and the cost of making the improvement of each tract together with its proportionate share of the total expenses shall be assessed against such tract, and the provisions of said section so far as applicable shall govern the proceedings under this act and the county auditor is hereby authorized to exercise all the rights and authority granted by such section, and in all places where the term "ditch" or "drainage ditch" shall appear in said section, the same for all purposes of this act shall read: "improvement" and said section used and applied accordingly; and said county auditor shall after preparing the said statement cause a duplicate thereof to be filed in the office of the register of deeds in and for said county as provided in section 5544 General Statutes of 1913 and the provisions of said section shall apply to

the proceedings under this act and the county auditor and register of deeds are hereby authorized to exercise the rights and authority and perform the duties herein specified, and the provisions of section 5546-5548 General Statutes of 1913 shall apply to and govern the proceedings under this act and the county auditor and the county treasurer and the register of deeds are hereby authorized and required to perform in all proceedings under this act the duties specified in said act and in all cases where the term "ditch" or "ditches" or other similar terms appears in said section, the same for all purposes of this act shall read: "improvement" and be construed accordingly.

Sec. 16. In all cases where reference is made to sections and chapters of the General Laws of 1913, such provisions shall, so far as applicable, be treated and considered as having the same force and effect, so far as the provisions of this act are concerned, as though herein set forth.

Sec. 17. This act shall take effect and be in force from and after its passage.

Approved April 2, 1921.

CHAPTER 156—S. F. No. 30.

An act entitled "An act to provide for the completion, equipment, maintenance and operation of the state testing mill, placing the management and control thereof, under the direction and supervision of the commissioner of agriculture, providing for the disposal of its products, and appropriating funds for its completion, maintenance and operation.

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

Section 1. State Testing Mill to be under supervision of Commissioner of Agriculture.—The management, supervision and control of the State Testing Mill erected pursuant to the provisions of Chapter 38, Laws of Special Session 1919, is hereby assigned to and placed under the Commissioner of Agriculture, and he is hereby authorized to complete, equip, maintain and operate said mill and appoint such assistants, clerks and employees as may be necessary to comply with the provisions of this act, and fix their compensation. Said mill shall be operated to the extent and in such manner as the Commissioner of Agriculture shall deem advisable, and among other things, shall be used for the purpose of making scientific tests to ascertain the true milling value of the various kinds and grades of wheat or other grains of this or other States as the Commissioner may desire, for the use and benefit of the Agricultural Department and the Grain Inspection Department, and for any other purpose the Commissioner may conclude to be in the interest of agriculture and the marketing of agricultural products.