

Section 1. **Cost of surety bonds to be expense of receivers.**—That Mason's Minnesota Statutes of 1927, Section 9693, be and the same hereby is amended to read as follows:

"9693. Any receiver, assignee, trustee, committee, guardian, executor, administrator, or other fiduciary, required by law to give bond as such, may include as a part of his lawful expenses such *actual* sum paid for such suretyship, not exceeding ten dollars per annum when the amount of the bond is not more than one thousand dollars, and not more than one per cent. per annum on the excess when over one thousand dollars, as the head of the department, court, judge, or officer by whom or the court or body by which he is appointed allows; and in all actions or proceedings the party entitled to recover costs may include therein the reasonable fees of such company for executing or guaranteeing any bond or undertaking therein. The several county and town boards, and the governing body of any city, village, or school district, may allow the treasurer of the municipality such reasonable sum, not exceeding the amount herein specified, as may have been paid by him for such suretyship, to be paid out of the general revenue fund of the municipality: Provided, that the officers required by law to approve such bill may first designate the surety company to be employed, if its charges be as low as those offered by any other responsible company."

Approved April 17, 1933.

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CHAPTER 312—H. F. No. 1225

*An act to amend Mason's Minnesota Statutes for 1927, Sections 6840-2, 6840-12, 6840-16, 6840-17, 6840-24, 6840-25, 6840-26, 6840-55, and 6840-110 relating to public drainage proceedings.*

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

Section 1. **Powers of county boards and district court as to public drainage systems, etc.**—That Mason's Minnesota Statutes for 1927, Section 6840-2 be and the same hereby is amended so as to read as follow:

Section 6840-2. (a) The county board of the several counties and the district court of the several district of the State of Minnesota, are hereby authorized and empowered to make all necessary orders for and cause to be constructed and maintained, public drainage systems, drains and ditches to deepen, widen, straighten

or change the channel or bed of any river, creek, or waterway following the general direction thereof, and when practical terminating therein, to extend the same into or through any city or village for the purpose of securing a suitable outlet to construct all needed dykes, dams and controlling works and also power appliances, pumps and pumping machinery when a pumping outlet is deemed necessary to drain in whole or in part, meandered lakes which have become normally shallow and of a marshy character or which are no longer of sufficient depth or volume to be of any substantial public use.

(b) *When deemed necessary to control flood waters therein, the county board and court are hereby authorized and empowered to raise, lower or establish the height of water in any lake, body of water or water course and cause to be constructed all necessary structures and improvements to maintain the same for flood control or other public purposes, and where only a part of a meandered lake is to be drained, to cause to be constructed dykes or dams for the purpose of holding the water at the height designated by the board or court, in that part of the lake not to be drained.*

(c) *No meandered lake upon which any city or village is now a riparian owner shall be drained or lowered unless by the approval of a majority vote of the legal voters of said city or village at any annual or special election held for such purpose.*

(d) *Provided, however, that no meandered lake shall be drained except by the consent of the Commissioner of Conservation subject to such policies as the Conservation Commission may formulate from time to time to be filed in the proceedings, on or before the date of the appointment of the engineer by the board or court as provided in Section 6840-5, Mason's Minnesota Statutes for 1927.*

**Sec. 2. Field books and maps of engineers—plans and specifications.**—That Mason's Minnesota Statutes for 1927, Section 6840-12 be and the same hereby is amended so as to read as follows:

Section 6840-12 (a) The engineer shall enter all field notes made during the survey and period of construction in a field book properly ruled, and make a complete and accurate map and profile of the drainage system as surveyed by him, upon good tracing cloth; such map shall be drawn to a scale, show the number of section, township and range in which the lands affected are situated, also each station number in figures, location of bench marks, the public streets, highways and railroad right-of-ways affected, the name of the county, township and municipality in which such lands or any part thereof are situated, and all other matters necessary to the

understanding of the board or court. The profile shall be drawn on a scale, show the elevation, grade, depth of cut, size of tile, and the elevation in figures of each branch and lateral at its source, outlet, and at each 100 foot stake.

(b) *Said engineer* shall make a complete set of plans, specifications and estimates of costs covering all the work and construction ordered by the board or court, and make a full, detailed and complete report of his work and recommendations to the board or court and shall include all maps, profiles, specifications and matters herein provided for and file the same with the county auditor or clerk of the district court, where the proceedings are pending.

(c) All plans, specifications, maps, profiles and estimates of costs herein required shall be made in triplicate and shall be filed with the auditor or clerk where the proceedings are pending, and within 5 days from the filing of such report and before further proceedings are had thereon, one of the copies of said report shall be forwarded by said auditor or clerk to the *director of the division of drainage and waters of the department of conservation* who, within the next 15 days shall examine and approve the same as presented and shall file with the auditor or clerk his approval thereof, or if he does not approve he shall file instead his recommendations for modifications thereon as he may deem necessary.

(d) Provided, that if for any reason the said *director of the division of drainage and waters* finds it impossible or impracticable to complete the examination and report on an engineer's report within the time limited herein, said *director* may make application to the said auditor or clerk for an extension of time, and the said auditor or clerk shall have authority to grant *such* extension.

(e) Upon the filing of the approval or recommendations of *director of the division of drainage and waters* with the auditor or clerk, said auditor or clerk shall make an order designating the time and place for the first meeting of the viewers as provided in Section 16 of this Act after which all further proceedings shall be had as provided in this Act. One copy of said engineer's report as originally filed with the auditor or clerk or as modified by the board or court at the final hearing shall be retained by said auditor or clerk, and one copy with a copy of the contract attached shall be delivered to the contractor at his request at any time after the execution of the contract.

(f) It shall further be the duty of the engineer, when the work of construction is completed, or when for any cause the engineer ceases to longer act as such, to cause all original plats, profiles and field books to be filed in the office of the county auditor or clerk

of the district court where such proceedings are pending, and the said county auditor or county auditors, are hereby forbidden to draw an order making final settlement with the engineer until proper proof has been supplied that the requirements of this section have been complied with by the engineer.

**Sec. 3. Viewers—appointment—time and place of meeting.**  
—That Mason's Minnesota Statutes for 1927, Section 6840-16 be and the same hereby is amended so as to read as follows:

Section 6840-16. (a) As soon as conveniently can be done following the appointment of the engineer, the county board, in case of a county drainage proceeding or the district court in the case of a judicial drainage proceeding, shall make an order appointing three resident freeholders of the county or counties, not interested in the construction of the proposed work and not of kin to any of the parties known to be interested therein, as viewers, to meet at the time and place to be specified by the county auditor or clerk of the district court as hereinafter provided, preparatory to commencing their duties as hereinafter specified.

(b) It shall be the duty of the county auditor in the case of county drainage proceedings or the clerk of the district court in the case of judicial proceedings, within 5 days after the filing of the report of the *director of the division of drainage and waters* approving or recommending modifications of engineer's report, to make an order designating the time and place of the first meeting of the viewers, and it shall further be the duty of the county auditor or clerk of the district court within 5 days after the filing of the approval or recommendation of the *director of the division of drainage and waters* on the said engineer's report to issue to said viewers, if then appointed, a certified copy of the petition, the order appointing them and of the order designating the time and place of their first meeting.

(c) Provided, that if the said viewers have not been appointed at the time of the filing of the approval or recommendation of the said *director of the division of drainage and waters* on the said engineer's report, it shall be the duty of said auditor or clerk, within 5 days of the date of the order appointing said viewers, to make his order fixing the time and place of the first meeting of said viewers, as provided in this section.

(d) In case any of the viewers so appointed shall fail for any cause to qualify in time for the first meeting, the county auditor, in case of county drainage proceedings and the clerk of the district court in case of judicial proceedings, shall designate some other person having the qualifications above stated to take his place.

**Sec. 4. Same—oath—statements and reports—majority may act.**—That Mason's Minnesota Statutes for 1927, Section 6840-17 be and the same hereby is amended so as to read as follows:

Section 6840-17. (a) The viewers after taking the oath to faithfully perform their duties, shall proceed at the time set in said order, with or without said civil engineer, and shall prepare, *in duplicate*, a tabular statement showing as far as practicable the description of each tract of land benefited or damaged; with the name of the owners as the same appear on the last county tax duplicate of said county, the total number of acres in each said tract of land benefited or damaged, as the case may be, the number of acres added to any tract by the total or partial drainage of any meandered lake, or by the change of any water course, and the location and value of such added land; the damage, if any, to riparian rights pertaining to any tract; and the amount that each tract of land will be benefited or damaged by the construction of said work; when any drainage system established under this Act drains in whole or in part any public or corporate road or railroad, or benefits any such road or railroad, so that the road bed or traveled track of any such road or railroad, will be made better by the construction of such system, the viewers shall estimate the benefits arising therefrom to such road, roadbeds or railroads, and report said benefits, giving the names of such roads or railroads, and other particulars necessary to identify the corporations, private or public, that will be benefited thereby and the amount of benefits to each, as a part of their tabular statement provided for in this section.

(b) *The* viewers shall also report as a part of such tabular statement the benefits that will result to villages or cities by way of increased drainage facilities or improvements to public health and also the damages awarded to each municipal or other corporation, and to each person, persons, or association of persons, telephone or telegraph line or other personal property, and from the necessary construction and maintenance of any bridges, culverts or other works rendered necessary by the establishment of such drainage improvement, stating the same separately; and they shall also report the total estimated benefits in respect to the entire system and branches, if any, and also whether or not, the estimated expense of the construction of such improvement, including the damages awarded therefor, are greater than the utility of the proposed drainage system, or that the construction of such a system is impracticable for any reason, stating the reason why it should not be constructed.

(c) In case the viewers are unable to agree, each viewer shall state separately in his report his findings on the matter disagreed upon.

(d) A majority of the viewers shall be competent to perform the duties required of them by this Act.

Sec. 5. **All benefited lands to be assessed.**—That Mason's Minnesota Statutes for 1927, Section 6840-24 be and the same hereby is amended so as to read as follows:

Section 6840-24. (a) All lands, public or corporate roads, or railroads, including town, county, state aid, and trunk highways, and all villages and cities, in any manner benefited, in whole or in part, by the construction of any public drainage system under the provisions of this Act shall be assessable for the costs of the construction thereof, including the costs and expenses connected with such proceeding in proportion to the benefits received, whether such benefits result directly from the construction of said system or some part thereof, or as the same affords an outlet for drainage or prevents the overflow or otherwise directly benefits such land, roads, railroads, villages or cities, provided, that in all cases where land is assessed for an outlet and the lateral connecting the same with the main ditch or branch thereof is not constructed at the time of constructing the system, such land shall be assessed only for the estimated benefits less the estimated cost of connecting the same with said system or some part thereof.

(b) Provided, further that in any cases where drainage by pumping outlet is established, the board or court shall have authority when necessary to provide for maintenance of the pumping system by annual assessment upon the property benefited.

(c) All lands owned by the State of Minnesota or any department thereof benefited by such drainage system or any branch thereof shall be assessable for such benefit, the same as taxable land, and trunk highways, the same as town, county and state aid roads, provided that in all cases a notice of final hearing on the petition, engineer's and viewers reports shall in case of assessment of state lands be served upon the state auditor and the *director of the division of drainage and waters*; and in case of assessment of trunk highways, be served on the commissioner of highways as in the case of individual land owners.

Sec. 6. **Viewers report to be filed.**—That Mason's Minnesota Statutes for 1927, Section 6840-25 be and the same hereby is amended so as to read as follows:

Section 6840-25. Said viewers shall upon the completion of their work file with the county auditor, in the case of a county drainage proceeding or with the clerk of the district court in the case of a judicial proceeding, *two copies of the report of all their doings and findings in detail, including expenses and actual time they were engaged, and within 5 days from the filing of such report one of the copies of said report shall be furnished by said auditor or clerk to the director of the division of drainage and waters, who shall file and keep the same as a part of his record in said proceedings.* The said viewers shall in every case completely perform the several duties by this Act imposed upon them, at the earliest date possible following their first meeting.

**Sec. 7. Final hearing on petition, engineers and viewers report.**—That Mason's Minnesota Statutes for 1927, Section 6840-26 be and the same hereby is amended so as to read as follows:

Section 6840-26. (a) Within three days after the filing of the report of the viewers it shall be the duty of the county auditor in county drainage proceedings to fix a date for hearing on the petition and the engineer's and viewers reports in said proceedings, said date shall not be less than 35 or more than 50 days from the date of notice, and give to the several members of the county board the usual notice of calling a special meeting for that date in the manner provided by law, and in the case of judicial proceedings it shall be the duty of the clerk of the district court where such proceedings are pending, with the approval of the judge, to fix a time and place for hearing on the petition and engineer's and viewers reports.

(b) It shall further be the duty of said auditor or said clerk where such proceedings are pending to cause notice of the time and place of such hearing to be given to all persons interested by publication of such notice for three successive weeks prior to date of hearing in a newspaper printed and published in each county affected.

(c) Provided, that in the case of judicial proceedings extending into two or more counties, it shall not be necessary to publish in any county the description of any real estate or the names or description of any roads, railroads or municipal corporations, except such as are located in said county.

(d) Printed copies of such notices, so printed for the respective counties, shall be posted at least three weeks before such date of hearing in three public places in each township in each respective county where such work is located, and one at the front door of the court house in each respective county. Said notice shall briefly

state the pendency of said petition and shall state that the engineer's and viewers reports have been made and filed with said county auditor or the clerk of the district court where such proceedings are pending, and shall state the time and place set for such hearing. Said notice shall contain a brief description of the proposed drainage system, giving in general terms the starting point of the main ditch and branches, the general course of each and terminus, and shall designate the governmental sections of land over which such system or branches or any part thereof is surveyed, as the same is shown by the report of the engineer, and shall give the names of the owners of land and the municipal and other corporations affected thereby, as shown by the engineer's and viewers reports.

(e) Within one week after the beginning of such publication the county auditor in the case of county drainage proceeding or the clerk of the district court in case of judicial proceedings shall mail a printed copy of said notice to the state auditor, *Commissioner of Conservation* and all persons and corporations who are the owners of land or are otherwise affected by said proposed drainage system as shown by the engineer's and viewers reports, whose address is known to such county auditor in the case of county drainage proceeding or the clerk of the district court in a judicial proceeding, or can be ascertained respectively by said auditor or clerk by inquiry at the county treasurer's office of the county wherein such lands, roads or railroads or municipal corporations are situated.

(f) Provided, that in all judicial proceedings extending into two or more counties, it shall be the duty of the clerk to mail to all persons and corporations who are the owners of lands, roads or railroads, or otherwise affected by said proceedings, not less than ten days before the date of hearing, copies of the notice printed in their respective counties.

(g) Provided, further, that in all cases in which for any cause said notice shall not be given or shall be legally defective the county auditor or clerk of the district court, as the case may be, shall cause the same to again be given so that the petition, engineer's and viewers reports and final hearing thereon may be heard at another meeting or session of said county board or district court which will occur more than seven days after the expiration of another notice by the publication, posting and mailing as provided in the first instance.

(h) Provided, further, if it shall appear at the date of said hearing before the county board or district court that said notice has been properly made, published, posted and served, as to a part of the lands, roads, railroads and corporations, public or private, named in the engineer's and viewers reports, but was legally de-



fective, either as to publication, posting or service as to other lands, roads, railroads or corporations, or that said notice was properly made, published, served and mailed but through error certain descriptions of lands, roads, railroads or corporations, public or private, were omitted from such notice or defectively described, then or in either case said county board or district court where such proceedings are pending may adjourn or continue said hearing and order notice to be given as required in the first instance, describing such lands, roads, railroads or corporations, public or private, omitted from the first notice or with reference to which the first notice was in any manner defective, either as to form and contents or as to publication, posting or service, and in that event, the jurisdiction of said board or court shall continue as to all lands, roads, railroads or corporations, public or private, with reference to which proper notice was given, published and served, and in case of judicial proceedings, if it shall appear that proper notice was given, published, posted and mailed only as to lands, roads, railroads or corporations, public or private, within one county but defective as to one or more counties, then the proceedings may be adjourned as herein provided, but it shall not be necessary to publish, post or mail said notice except in the county or counties with reference to which notice of publication, posting or mailing was defective.

(i) Provided, further, that in all cases where service of notice is required by this section to be given by publication, posting and mailing, or otherwise, a personal service of the printed notice in the manner provided for the service of summons in district court, not less than ten days prior to the date of hearing, the same shall be considered as equivalent to and as in lieu of all other service, and in any case where a party has received a copy of the notice required to be served not less than ten days prior to the date of the hearing, such party shall not be permitted to object because some other manner of service has not been made as provided by this Act.

(j) Provided, further, that in all cases where an adjournment of the hearing is had because of defective notice or service, the board or court may order personal service upon such party with reference to whom a previous notice or service was defective, and if personal service is made not less than ten days prior to the date of the adjourned hearing, the same shall be treated as sufficient and as in lieu of all other manner of service as required by this Act.

**Sec. 8. Repair or improvement of drainage system—engineer.**—That Mason's Minnesota Statutes for 1927, Section 6840-55 be and the same hereby is amended so as to read as follows:

Section 6840-55. (a) Such engineer shall give bond in the manner now provided by law for the construction of county drain-

age systems and shall within 30 days from the date of such appointment commence such examination and surveys if necessary, and make report to the board or court, as the case may be, at as early a date as practicable, with his recommendations thereon, and he shall submit with such report a map of such drainage system or such portion thereof as is obstructed or otherwise needs improvement or extending, and include therein sufficient detail to show the nature and extent of such obstruction and necessary improvements and in case he shall recommend that such drainage system needs deepening, widening or extending, a map of the original drainage system, including all laterals or extensions, public or private, open or tiled added thereto and all lands affected by such original system and such additions and descriptions of all the land affected by such deepening, widening or extending of said system shall be submitted therewith including details, plans and specifications and estimate of the cost sufficiently complete to enable the board or court to fully understand the nature of the improvement and extent and probable cost thereof, and supply the necessary details to let a contract therefor.

(b) So far as applicable and necessary said engineer shall, in the performance of his duties comply with the requirements of Sections 10 and 12 of this Act, *including the filing a copy of his report with the director of the division of drainage and waters*, and in case of a state drainage system that has been constructed other than by assessment against the property benefited the engineer's report shall cover the same ground and in addition thereto shall give the description of all lands affected thereby and so far as practicable the names of the owners thereof.

**Sec. 9. Appearance in proceedings by state and county officials.**—That Mason's Minnesota Statutes for 1927, Section 6840-110 be and the same hereby is amended so as to read as follows:

Section 6840-110. In all proceedings under the provisions of this Act where a notice is required to be served upon the State Auditor, *the director of the division of drainage and waters and the commissioner of conservation*, said officials shall have the right to appear in said proceedings and represent the interests of the state and the general public, and in all judicial proceedings the county boards of the several counties affected shall have the right to appear and represent the interest of their respective counties; and all such parties at such hearings shall have the right to present and have considered in addition to other matters evidence relative to the value of any body of water as materially affecting the water supply or water level in the surrounding territory, the effect of

the proposed improvement upon the conservation of the forests of the state, or as affecting the conservation of wild life of the state.

Approved April 17, 1933.

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CHAPTER 313—S. F. No. 1234

*An act creating a State Forest Fund and providing for the distribution thereof and authorizing and directing a payment annually by the State of Minnesota to the counties therein of an amount equal to 50 per cent of the gross receipts of certain State forest lands.*

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

**Section 1. State forest fund created.**—All income which may be received from lands acquired by the State within the areas which have been designated or shall hereafter be designated by the Legislature as state forests, excepting State forest lands included within the game preserve established by Laws of 1929, Chapter 258, and by Laws of 1931, Chapter 407, shall be paid into the state treasury and credited to the General Revenue fund.

**Sec. 2. Fifty percent of receipts to go to county.**—The State of Minnesota shall hereafter pay annually to each county in which there now are, or hereafter shall be situated, any state forests described in Section 1 hereof, a sum equal to 50 per cent of the gross receipts of such state forests located within such county, which payment shall be received and distributed by the county treasurer among the various funds of the county and the respective towns and school districts therein wherein such lands lie on the same basis as if such payment had been received as taxes on such lands payable in the current year.

**Sec. 3. State auditor to draw warrants.**—The state auditor shall annually draw his warrants upon the state treasurer for the proper amounts in favor of the respective counties entitled thereto and the state treasurer shall pay such warrants from the state forest fund.

**Sec. 4. State auditor and state treasurer to adopt an accounting method.**—The state auditor and the state treasurer are hereby authorized and empowered to devise, adopt, and use