

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

**Section 1. Superintendent of water works pension fund in certain cities.**—In every city of the fourth class in the state of Minnesota, now having or hereafter having a population of not less than 7500 inhabitants and not more than 11,000 inhabitants, and an assessed valuation, more than 50% of which valuation consists of iron ore, there may be created a superintendent of water works pension fund, which shall be managed, controlled and distributed in accordance with the provisions of this act.

**Section 2. Superintendent may be pensioned in certain cases.**—The water and light commission of such city may, by a two-thirds vote of its membership, cause to be pensioned the superintendent of such city water works, at a salary not to exceed one-half of his average salary during the 25 or more years in which he served in that capacity for such city or its predecessor a village.

Approved July 14, 1937.

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#### CHAPTER 32—S. F. No. 17

*An act authorizing any town of this state, having a population of not less than 1,500 nor more than 2,000 inhabitants and having an assessed valuation of more than \$1,200,000.00 and less than \$1,750,000.00 and having an area of not less than 23,000 acres nor more than 25,000 acres to establish and maintain a system of sewers and to maintain, alter, relay and extend any existing system of sewers and to provide for the cost thereof and to create sewer districts within the limits of such towns and to establish and maintain sewage treatment plants therein.*

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

**Section 1. Certain towns may establish sewer systems.**—In any town of this State having a population of not less than 1,500 nor more than 2,000 inhabitants, and having an assessed valuation of more than \$1,200,000.00 and less than \$1,750,000.00 and having an area of not less than 23,000 acres nor more than 25,000 acres, the town board thereof shall have power to establish and maintain a general system of sewers, to create sewer districts and change, diminish or enlarge the boundaries thereof from time to time and to relay, alter or extend any existing sewer system and to establish and maintain sewage treatment plants when deemed necessary.

**Section 2. Town board to establish system.**—The town board of such town may at any time establish a general sewer system and may classify sewers as general, district, joint-district and lateral. General sewers shall be the designation of such large sewers as shall be common to the entire area used as outlets for district or joint-district sewers, and shall not include those which may or shall be constructed for the immediate draining of any particular district. District sewers shall be the designation of all main sewers laid for the immediate draining of a particular sewer district. Joint-district sewers shall be the designation of such large sewers as may be laid through or be used jointly by two or more sewer districts between a district sewer and a general sewer or independently of general sewers, and for all purposes of construction, maintenance, repairing and taxation or providing for the cost therefor, shall be treated as though in a single district. Lateral sewers shall be the designation of all sewers of whatever size, capacity or length, which may be constructed to drain any portion of a sewer district directly into any district, joint-district or general sewer.

**Section 3. Town may condemn property.**—All general, district and joint-district sewers shall be laid when practicable, in public grounds, streets or alleys. Whenever it shall be necessary in the judgment of the town board to lay and maintain any general, district, joint-district, or lateral sewer in or through other than public lands, the town may acquire the right thereto by purchase, gift, or by condemnation under the right of eminent domain.

**Section 4. May require sanitary sewers to be constructed.**—The town board of any such town may by resolution, on its own motion or by petition as hereinafter provided, determine that the public health and sanitation of an area in such town to be described in said resolution require that a sanitary sewer or sewers shall be constructed or it may be made on petition made by the owners of at least fifty-one percent in area of real property within such proposed sewer district. Such petition may be in informal language and may pray that such improvement be made and sewer constructed. It shall be filed with the town clerk and the town board shall examine the same and be satisfied that the persons signing same are owners of real estate within such proposed sewer district. The town board may thereupon determine by resolution whether or not the petition has been signed by the required percentage of owners and its determination so made shall be final and conclusive unless set aside by any court having jurisdiction thereof.

No action shall be taken for the construction of an entire or partial system, or for the extension of an existing sewer, except upon the adoption of a resolution by a majority vote of all the members of the town board. The creation of sewer districts and the alteration of the boundaries thereof shall be by resolution and the town board may at

all times cause inspection, surveys, plans and profiles to be made by a competent engineer selected by said town board and reported to the town board for its guidance in determining the form and extent of any sewer district to be created, enlarged or diminished and such sewer districts shall be consecutively numbered.

**Section 5. Cost to be paid out of sewer fund.**—The cost of constructing a general sewer, plant or plants for treating the sewage therein or the securing an outlet therefor shall be paid out of the sewer fund, if any, or if there is no sufficient sewer fund then out of the general fund of the town.

**Section 6. Cost may be assessed to benefited property.**—The cost of constructing any district sewer, plant or plants for treating the sewage therein and the securing of an outlet for such district sewer or treatment plant may be assessed against all the land in the sewer district subject to assessments for local improvements, according to special benefits to each lot, piece or parcel of land, in the district without regard to cash valuation.

**Section 7. Same.**—The cost of constructing every joint district sewer, plant or plants for treating the sewage therein and the securing of an outlet for such joint-district sewer or treatment plant may be assessed against all the land in the two or more sewer districts which it drains, and for that purpose all of the districts so drained by any joint district sewer shall be treated as one district, and the same plant, method and means employed as in assessing for the cost of a district sewer, treatment plant for same or outlet therefor.

**Section 8. Same.**—The entire cost of constructing all lateral sewers may be assessed against every lot, piece or parcel of land abutting thereon, subject to assessment for local improvement at an equal sum per front foot without regard to cash valuation.

**Section 9. Engineer to draw plans.**—Whenever the town board shall determine by resolution to establish, alter, repair, relay or extend any existing sewer or to construct any new sewer, the cost thereof shall be estimated by a competent engineer to be selected by the town board, who shall draw plans and specifications and tabulate the results of his estimate of the cost and report the same to the town board, and such plans and specifications shall be filed with the clerk of the town before any proposals for bids for work thereunder shall be advertised and shall remain on file open to the inspection of all persons until after the contract for such work shall be let and copies of such plans and specifications shall be furnished by the engineer who shall prepare the originals, to any person applying therefor, at a cost of seventy-five cents (75¢) per hour for the time necessarily employed in making such copies.

**Section 10. Contracts for construction.**—The town board shall then cause proposals for bids for such work to be advertised in the nearest newspaper published in said county and in some trade paper published in a City of the first class in the State. Said publications to continue at least once in each week for two successive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for the work, and shall state the time within which bids will be received and the time at which the same will be open for consideration by the town board. No bids shall be considered unless the same shall be accompanied by a cash deposit or duly certified check payable to the order of the treasurer of the town for at least Five percent of the amount bid and be directed to the clerk of the town securely sealed, so as to prevent its being opened without detection and be endorsed upon the outside wrapper with a brief statement as to the work for which the bid is made. In letting contract for any such work it shall be the duty of the town board to require the execution of a written contract and a bond in such sum as the town board may require, conditioned for the faithful performance of the contract and for saving the town harmless from any and all liability in the prosecution and completing of the work. The town board, if a contract is awarded, shall award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the town the amount of his cash deposit or certified check and the town board may thereupon award the contract to the next lowest responsible bidder; provided the town board shall have the right to reject all bids, and providing further, that whenever the estimates made for the town board for the entire work projected, shall be less than \$500.00, then the town board may directly purchase the materials therefor and cause the work to be done by day labor. Every contract awarded under this act shall be made between the town as one party in the name of the town and the successful bidder as the other party, and such contract shall be executed on behalf of the town by the chairman of the town board and countersigned by the clerk of said town and an attested copy thereof shall be filed and remain in the office of the clerk of said town.

In every contract executed under this act whether or not so stated therein, there shall be reserved the right of the town board to have the work supervised by an engineer or other person in behalf of the town and in case of improper construction, or unreasonable delay in the prosecution of the work by the contractor, to order and cause suspension of the work at any time and to re-let the contract therefor or to order a reconstruction of any portion of the work improperly done or where the remaining work to be done or the work of reconstruction to be made shall call for an expenditure of less than Five

Hundred Dollars to complete the work of reconstruction by the employment of day labor.

**Section 11. May pay on partial estimates.**—In case the contractor to whom such contract may be let shall properly perform the work therein designated the town board may, from time to time, before the completion of the work, in its discretion, pay to such contractor Eighty (80%) percent of the amount already earned thereunder upon the estimate of the engineer selected by the town board.

**Section 12. Engineer to assess benefits.**—Whenever any work or improvement provided for by this act shall have been determined upon and a contract let therefor, or outlet secured, the engineer selected by the town board, shall forthwith calculate the proper amount to be specifically assessed for such district, joint-district and lateral sewers, treatment plants or outlet against every assessable lot, piece or parcel of land within the sewer district affected, without regard to cash valuation, in accordance with the provisions of sections 6, 7 and 8 of this act.

Provided that in calculating the special assessment for any district sewer or joint-district sewer, the cost of laying or relaying such sewer in any public ground or public highway; and all catch basins, manholes, lamp holes and flushing valves and tanks and treatment plants shall be taken as a part of such district sewer or joint-district sewer and to be paid for by such special assessment.

Provided further, that private owners may lay, relay or extend any lateral sewer through any public ground, street or alley and connect the same with any general, district or joint-district sewers, upon permission granted by a majority of the town board and that any private owner alone, or two or more owners jointly, may lay, relay or extend lateral sewers through private ground pursuant to rights acquired therefor by agreement or purchase from any private owner or owners. In the event that any private owner alone or jointly with others lay, relay or extend any such lateral sewer through public ground, the town shall not be or become in any manner or in any respect liable for any act or negligence involved therein.

When such engineer shall have finished his calculation of the amount to be specifically assessed as aforesaid against each tract, piece or parcel of land in the sewer district affected, he shall at once prepare and file with the clerk of the town tabulated statements in duplicate, showing the proper description of each and every tract, piece or parcel of land to be specially assessed, and the amount he has calculated against the same and such statements shall be the basis of the assessment and be known as the proposed assessment to be made by the town board, as hereinafter prescribed and shall be laid before the town board for its approval at a meeting to be held not less than ten days thereafter. The clerk of the town shall thereupon cause notice

of the time and place when and where the town board will meet in regular session to pass upon such proposed assessments to be published in a newspaper in said county once in each week for two successive weeks and by three posted notices thereof in said town at least one of which posted notices shall be within the sewer district to be affected.

During all the time between the filing of said proposed assessment with the clerk of the town and such meeting of the town board such proposed assessment shall be opened to inspection and copying by all persons interested.

At such meeting of the town board all persons aggrieved by such proposed assessment may appear before the town board and present their reasons why such proposed assessment or any particular item thereof should not be adopted, and the town board shall hear and pass upon all objections thereto, if any, and may alter, or affirm and adopt such proposed assessment as may be deemed just in the premises, and upon the adoption by resolution of such proposed assessment the same shall be certified by the clerk of the town and filed in his office and shall thereupon be and constitute the special assessment. The amount assessed against each lot, tract, piece or parcel of land by such special assessment shall bear interest from the date of the adoption of such special assessment until the same have been paid, at the rate of interest to be designated by resolution of the town board at the time of the adoption of such special assessment but not to exceed six (6%) percent per annum and such special assessment with the accruing interest thereon shall be a paramount lien upon the property included therein from the time of the adoption of such assessment by the town board and shall remain such lien until fully paid, and shall have precedence over all other liens, except general taxes and as to such shall be concurrent, and shall not be divested or impaired by any judicial sale and no mistake in the description of the property or in the name of the owner shall invalidate the lien.

The town board may at any time by resolution direct the clerk of the town, to make up and file in the office of the county auditor a certified statement of the amount of all such unpaid assessments and the amount of interest which will be due thereon on the first day of January of the following year, and the clerk of said town shall within twenty (20) days thereafter make up and file such certified statement in the office of the auditor of the county, which statement shall also contain a description of the lands affected by the assessment. Such resolution may also direct that such special assessment shall be payable in equal annual installments not exceeding five, and payable on the first day of January of each year, each of said installments to bear interest at the rate hereinbefore provided until fully paid, and the certified statement of the clerk shall show the amount of each of

such installments, the date when each installment becomes due and the amount of interest to be paid on each installment in each year. After said statement is filed in the office of the County auditor it shall be the duty of such Auditor to extend upon the tax roll of each year the amount of such assessment or installment thereof, as the case may be, and the amount of interest which will become due on the first day of January of the following year as shown by said certified statement against the different lots or parcels of land therein described, and such amounts when so extended each year shall be carried into the tax becoming due or payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of the state and county taxes and the assessment and interest paid to the County Treasurer shall be paid over by him to the Treasurer of such Town upon the apportionment of general taxes, but in case such assessments or installments thereof are to cover payments due for a district or joint district sewer outlet as herein provided, then such payments shall be applied on same. Provided that any person named at any time before the transmission of the certified statement of the clerk of such town to the County Auditor pay, such special assessment as to any lot, piece or parcel of land affected thereby, together with the interest accrued thereon at the date of such payment, to the town treasurer, and receive the proper receipt therefor, and the clerk of the said town shall upon the presentation of such receipt from said town treasurer, cancel upon the special assessment roll the special assessments so paid.

Provided further, that any person may pay any such assessment with accrued interest thereon after the same has been so certified to the County Auditor, provided the tax roll containing such assessments has not in due course been delivered to the County Treasurer for collection and the receipt of such town treasurer shall be sufficient authority upon presentation to the County Auditor for him to mark such assessment "Paid" upon his roll, but after the roll has been delivered to the County Treasurer for collection, the said assessment must be paid to him, with the penalties allowed by law.

The same penalties and interest shall attach and be collected by the County Treasurer on assessments as upon general taxes, which penalties and interest shall belong to the town and to be turned over by the County Treasurer to the town with the assessment.

**Section 13. Supplemental assessments.**—In case of omission, errors or mistakes, in making such assessments in respect of the total cost of such improvement, or otherwise, it shall be competent for such town board to provide for and make supplemental assessments to correct such omissions, errors or mistakes; and such supplemental assessments shall be a lien as in case of the original assessment, drawing interest at the same rate and be payable and enforceable in

the same manner as is herein provided with respect to the original assessment.

**Section 14. Moneys to be placed in sewer district fund.**—All moneys collected on any such special assessment shall constitute a fund for the payment of the cost of improvements for the district for which such assessment was made and the same shall be credited to the proper sewer district fund under the designation; "Fund of Sewer District No. —" and in anticipation of the collection of such special assessment, the town may issue warrants on such funds to be known as "Sewer Warrants" payable at such times and in such amounts as, in the judgment of the town board, the collections of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed five (5%) percent per annum, payable annually and may have coupons attached representing each year's interest. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn and shall be signed by the chairman of the town board and counter-signed by the Town clerk and be in denominations of not less than Fifty Dollars nor more than Five Hundred Dollars. The town board of any such town may by resolution adopted prior to the issuance of such warrant pledge the full faith and credit of the town for the payment of the principal and interest of such warrants out of funds in the treasury of the town when the moneys on hand in the appropriate sewer fund are insufficient to meet the payment of such principal and interest as the same matures. Provided, however, that as to any such warrants for the payment of which the full faith and credit of the town is not pledged, such warrants shall be payable solely out of the proper sewer fund. It shall be the duty of the town treasurer on presentation to pay such warrants and interest coupons as they mature out of any funds on hand in the proper sewer fund, or out of the general fund of the town if directed by the town board. Such warrants may be used in making payments on contracts for the improvements and may be sold by the town for not less than par and the proceeds thereof used in paying for such improvements, provided however that no indebtedness created under this act shall exceed two percent of the assessable valuation of said town and provided further that the town board of any town which shall have issued any such sewer warrant shall have power by a majority vote to levy a tax not exceeding two mills in any one year for the support of the fund of any sewer district or districts.

**Section 15. Sewer warrants may be used to pay assessments.**—Any matured sewer warrant or interest coupon may be used in payment of any such special assessment on any particular property situate within the district for which such warrant or coupon shall have been issued; and the warrants and coupons so used shall be cancelled and retired by the town treasurer.

**Section 16. Delinquent assessments to be paid before deeds may be recorded.**—No conveyance of any land upon which any such special assessment, or portion thereof, is due and unpaid, shall be recorded until such delinquent assessment, or portion thereof, shall have been paid.

**Section 17. Proceedings and records.**—In all proceedings and records prepared or used in the making, levy or collection of such special assessments, letters, figures and proper ditto marks may be used to denote lots, pieces, and parcels of land, and blocks, sections, townships, ranges and parts thereof and dates.

**Section 18. Errors not to invalidate assessments.**—No errors or omissions which may be made in any of the proceedings of the town board or of the engineer or any officer of such town in refusing to, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in this act or in making any such special assessment or in levying or collecting the same, shall invalidate such assessment; unless it shall appear that by reason of such error or omission substantial injuries has been done to the party claiming to be aggrieved.

**Section 19. Reassessments in certain cases.**—In all cases where any assessment or any part thereof as to any lot or lots, tracts or parcels of land assessed under any of the provisions of this act, for any cause whatever whether jurisdictional or otherwise, shall be set aside or be declared void by any court, the town board shall without unnecessary delay cause a reassessment or new assessment to defray the expenses of such improvements to be made, whether such improvements was made under this act or any other laws of this State, and such reassessment or new assessment shall be made as nearly as may be, as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the town board, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act and in all cases where judgments shall hereafter be refused or denied by any Court for the collection and enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot, tract or parcel of land for any cause, the said lot, tract or parcel may be reassessed or newly assessed from time to time until each separate piece or parcel of land has paid its proportionate part of the costs and expenses of said improvements as near as may be.

**Section 20. Notices.**—The notice of the time and place when and where the town board will meet in regular session to adopt any proposed assessment under Section 12 of this act and to be prepared by the Clerk of the town to be published and posted as hereinbefore required shall specify the particular sewer district or districts in

which the improvement is to be made and shall describe with reasonable certainty the location, extent and termini of the sewer or sewers to be laid, relayed or extended; provided that no omission or inaccuracy in such notice shall invalidate the notice or the assessment, unless substantial injury shall be shown by the person claiming to be aggrieved thereby.

When the town board shall meet for the purpose of adopting any proposed assessment under the provisions of this act, no grievance or objection thereto or to any item therein shall be heard by the town board unless the party objecting or his duly authorized agent or attorney shall on or before the date of such session file with the clerk of the town board for presentation to the town board a complete written statement of the objection with specific reference to the matter or items in question and to which objection is made.

**Section 21. Appeals from assessments.**—Any person feeling himself aggrieved by such special assessment may, by notice in writing served upon the chairman of the town board and also upon the clerk of the town, a copy whereof, with proof of service shall be filed in the office of the clerk of the District Court of the county wherein such town is situated, within twenty days after the adoption of such special assessment, appeal from such special assessment to the District Court aforesaid and such appeal shall be disposed of in a summary manner by the court. At the trial of such appeal no pleadings shall be required but the party appealing shall in his notice of appeal specify and enumerate the particular grounds of his objection to such special assessment and shall not be entitled to have considered on such appeal any grounds of objection or items other than those specified in such notice and no question shall be tried on such appeal as to any fact which may have arisen or existed prior to the letting of the contract or contracts for the improvement and a copy of the assessment roll in question and of the resolution of the town board confirming or adopting the same certified by the clerk of the town or the originals thereof shall be *prima facie* evidence of the facts therein stated or denoted and that such assessment was regular, just and made in conformity to law and the judgment of the court on the determination of such appeal shall be final. Such appeal shall be entered and brought on for hearing and be governed by the same rules as far as applicable as in appeals from justices of the peace in civil actions, and like bonds shall be given to the town by the person appealing as are required in appeals from justices of the peace in civil actions, but such bond shall, surrender such appeal affective shall be approved by the judge of such district court or court commissioner of such county. Provided that no appeal to the District Court shall be made, heard or determined as to such special assessment or any item therein unless such objection shall have been as in this act specified, previously presented to and passed upon by the town board.

**Section 22. Town board to keep sewers in repair.**—Whenever any such sewer shall be laid, relaid or extended, it shall be the duty of the town board to maintain and keep the same in repair at the expense of the town.

**Section 23. Private connections with sewer.**—All private connections shall be made with lateral sewers, unless some insurmountable obstacle of a practical nature shall prevent and no private connection with any sewer whatever shall in any event be made without permission therefor granted by the town board and the making of all private connections with any sewer shall be subject to supervision and control by the town board; provided that such supervision and control may be delegated by the town board to any engineer or other person selected by the town board at its discretion.

**Section 24. Shall have right of eminent domain.**—Whenever it shall become necessary for the town to exercise the right of eminent domain for the purpose included within this act all proceedings therein shall conform as near as may be to the provisions of Section 2620 to 2632, both inclusive of the General Statutes of 1894 and amendments thereto.

**Section 25. Towns to have power of villages.**—For the purpose of carrying out the provisions of this act a Town as defined in Section 1 hereof shall have and possess all the power and have the same authority now possessed by villages under the general laws of this State and the chairman of the town board shall be deemed the chief executive officer thereof and the town clerk shall be charged with the duty of performing all the clerical functions necessary therefor and the town board shall have and possess all the power and authority now possessed by a village council, under said general laws of this State.

**Section 26. Town may contribute part of expense.**—The town may contribute to the cost of the construction of such sewer such proportionate share thereof, as shall be determined by the Town Board before making the assessments for such sewer and may pay the said share so determined, out of the general funds of the Town.

Approved July 14, 1937.

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CHAPTER 33—S. F. No. 18

*An act authorizing the county board of certain counties to appoint a county purchasing agent and legalizing certain acts heretofore performed.*

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