

Subd. 2. **Fees chargeable.** In addition thereto student activity fees shall be charged at the State Teachers' Colleges not to exceed \$8.00 per quarter, and in the model schools, not to exceed \$2.00 per quarter.

Sec. 4. **Repeal.** Laws 1943, Chapter 611, Subdivision 3 is hereby repealed.

Approved April 19, 1945.

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#### CHAPTER 395—S. F. No. 460

*An act relating to the pollution of any waters of the state and to the disposal of sewage, industrial waste, and other wastes, and amending Minnesota Statutes 1941, Section 144.38.*

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

Section 1. **Definitions.** Subdivision 1. The following words and phrases when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subd. 2. "Sewage" means the water-carried waste products from residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

Subd. 3. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.

Subd. 4. "Other wastes" mean garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals, and all other substances not sewage or industrial waste which may pollute or tend to pollute the waters of the state.

Subd. 5. "Pollution" means the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health,

safety or welfare, to domestic, commercial, industrial or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life.

Subd. 6. "Sewer system" means pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subd. 7. "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, stabilizing or disposing of sewage, industrial waste, or other wastes.

Subd. 8. "Disposal system" means a system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works.

Subd. 9. "Waters of the state" means all streams and lakes, including all rivers and lakes bordering on the state, marshes, watercourses, state, county, town or judicial drainage systems and other bodies of water, natural or artificial, public or private, of such character that the pollution thereof may create a nuisance or be either actually or potentially harmful or detrimental to the public health, safety or welfare, or to domestic, commercial, industrial or recreational use, or to livestock, wild animals, birds, fish, or other aquatic life.

Subd. 10. "Person" means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.

**Sec. 2. Water pollution control.** Subdivision 1. **Commission created; members; compensation.** There is hereby created a water pollution control commission, hereinafter referred to as the commission, which shall consist of the secretary and executive officer of the state board of health, the commissioner of conservation, the commissioner of agriculture, dairy and food, the secretary and executive officer of the state livestock sanitary board, and a member at large who shall be appointed by the governor and shall hold office for four years and until his successor shall have been appointed and qualified. The member at large shall receive no compensation for his services but he shall receive necessary and actual traveling and subsistence expenses for any meeting of the commission or for trips which he may make in connection with the work of the commission. The other members of the

commission shall receive no additional compensation for their services as members of the commission, but shall receive their necessary and actual traveling and subsistence expenses while engaged in the business of the commission, which shall be paid from the appropriations to their several departments.

**Subd. 2. Meetings; officers.** The commission shall hold quarterly regular meetings each calendar year at a time and place to be fixed by the commission. It shall select at its first meeting following the passage and approval of this act two of its members to serve as chairman and vice-chairman, respectively, and at the first regular meeting in each calendar year thereafter which shall be held in January, it shall select two of its members to serve for the ensuing year as chairman and vice-chairman, respectively. The secretary and executive officer of the state board of health shall serve as secretary of the commission and shall have custody of its files and records except such as are required to be filed with the secretary of state or otherwise. Special meetings of the commission may be called by the chairman or by any two other members upon at least two days' written notice mailed to each other member of the commission or delivered at their respective offices. A majority of members of the commission shall constitute a quorum.

**Sec. 3. Powers and duties.** Subdivision 1. The commission is hereby given and charged with the following powers and duties:

**Subd. 2.** To administer and enforce all laws relating to the pollution of any of the waters of the state;

**Subd. 3.** To investigate the extent, character, and effect of the pollution of the waters of this state and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the waters of the state as it may deem advisable;

**Subd. 4.** To establish and alter such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary for the purposes of this act;

**Subd. 5.** To make and alter reasonable orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under Subdivision 4 of this section;

Subd. 6. To require to be submitted and to approve plans for disposal systems or any part thereof and to inspect the construction thereof for compliance with the approved plans thereof;

Subd. 7. To issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the discharge of sewage, industrial waste or other wastes, or for the installation or operation of disposal systems or parts thereof;

Subd. 8. To revoke or modify any permit issued under this act whenever it is necessary, in the opinion of the commission, to prevent or abate pollution of any waters of the state;

Subd. 9. To prescribe and alter rules and regulations, not inconsistent with law, for the conduct of the commission and other matters within the scope of the powers granted to and imposed upon it by this act, provided that every rule or regulation affecting any other department or agency of the state, or any person other than a member or employee of the commission shall be filed with the secretary of state; and

Subd. 10. (1) To conduct such investigations and hold such hearings as it may deem advisable and necessary for the discharge of its duties under this act, and to authorize any member, employee or agent appointed by it to conduct such investigations or hold such hearings.

(2) In any such hearing or investigation, any member of the commission, or any employee or agent thereto authorized by the commission, may administer oaths, examine witnesses and issue, in the name of the commission, subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing or investigation. Witnesses shall receive the same fees and mileage as in civil actions.

(3) In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides, shall have jurisdiction upon application of the commission or its authorized member, employee or agent to issue to such person an order requiring him to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

**Sec. 4. Disposal systems. Subdivision 1: Information.** Any person operating a disposal system, when requested by the commission, shall furnish to it any information which he may have which is relevant to the subject of this act.

**Subd. 2. Examination of records.** The commission or any employee or agent thereof, when authorized by it, may examine any books, papers, records or memoranda pertaining to the operation of a disposal system.

**Subd. 3. Access to premises.** Whenever it shall be necessary for the purposes of this act, the commission or any member, employee or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations.

**Sec. 5. Final order. Subdivision 1. Notice; hearing.** No final order of the commission shall be effective as to the vested rights of any person adversely affected thereby nor as to any disposal system operated by any person unless the commission or its authorized officer, member, or agent shall have held a hearing upon the matter therein involved at which evidence may be taken, of which hearing such person shall have had notice as hereinafter provided. Any person who will be directly affected by the final order therein shall have the right to be heard at the hearing and to submit evidence thereat. Written notice specifying the time and place of the hearing shall be served by the commission upon all persons known by it to be directly affected by the final order, personally or by registered mail not less than ten days before the date of the hearing. A copy of the final order shall be served in the same manner upon all persons who entered an appearance at the hearing.

**Subd. 2. Emergency order.** Notwithstanding the provisions of Subdivision 1 of this section, the commission, when it shall have first determined that an emergency exists respecting any matter affecting the public health, may make a final order without notice and without a hearing. A copy of such final order shall be served as provided in Subdivision 1 of this section.

**Subd. 3. Appeal.** An appeal may be taken from any final order, rule, regulation, or other final decision of the commission by any person who is or may be adversely affected thereby, or by the attorney general in behalf of the state, to the district court of Ramsey County in the manner herein provided. Within 30 days after receipt of a copy of the order, rule, regulation, or decision, or after service of notice thereof

by registered mail, but not in any case more than six months after the making and filing of the order, rule, regulation or decision, the appellant or his attorney shall serve a notice of appeal on the commission, through its secretary; provided, that during such 30 day period the court may, for good cause shown, extend such time for not exceeding an additional 60 days, but not beyond the expiration of such six months' period. The notice of appeal shall refer to the action of the commission appealed from, shall specify the grounds of the appeal, including points of both law and fact which are asserted or questioned by the appellant, and may contain any other allegations or denials of fact pertinent to the appeal. The notice shall state an address within the state at which service of notice and other papers in the matter may be made upon the appellant. The original notice of appeal, with proof of service, shall be filed by the appellant or his attorney with the clerk of the court within ten days after service of the notice, and thereupon the court shall have jurisdiction of the appeal.

**Subd. 4. Intervention by state.** The appellant and the commission shall in all cases be deemed the original parties to an appeal. The state, through the attorney general, or any other person affected may become a party by intervention as in a civil action, upon showing cause therefor. The attorney general shall represent the commission, if requested, upon all such appeals unless he appeals or intervenes in behalf of the state. No bond or deposit for costs shall be required of the state or the commission upon any such appeal or upon any subsequent appeal to the supreme court or other court proceedings pertaining to the matter.

**Subd. 5. Venue of appeal.** The venue of an appeal may be changed by order of the court upon written consent of the parties or for cause shown, after hearing upon notice to all parties; as in a civil action, to the district court of any county in which the order, rule, regulation, or decision appealed from would take effect.

**Subd. 6. Record on appeal.** Within 30 days after service and filing of the notice of appeal the commission, through its secretary, shall make, certify, and file with the clerk of the court having jurisdiction of the appeal a return comprising a copy of any application, petition, or other material paper whereon the action of the commission appealed from was based, a copy of the order, rule, regulation, or decision appealed from, a statement of any findings of fact or rulings or conclusions of law made by the commission in the matter, and such other statements, admissions, or denials upon questions of law or

fact raised by the appeal as the commission may deem pertinent. Such 30 day period may be extended by the court for cause shown for not exceeding an additional 60 days. Within the time allowed for making and filing the return a copy thereof shall be mailed to or served upon the appellant or his attorney. The allegations of new matter in the return shall be deemed to be denied by the appellant unless expressly admitted, and no further pleadings shall be interposed. Otherwise the allegations of the notice of appeal and return shall have like effect as the pleadings in a civil action and shall be subject to like proceedings, so far as applicable.

**Subd. 7. Appeals as in civil actions.** The appeal shall be heard and determined by the court upon the issues raised by the notice of appeal and return according to the rules relating to the trial of civil actions, so far as applicable. The court of its own motion or on application of any party may, in its discretion, take additional evidence on any issue of fact or may try any or all such issues de novo, but no jury trial shall be had. If the court shall determine that the action of the commission appealed from is lawful and reasonable, and is warranted by the evidence in case an issue of fact is involved, the action shall be affirmed. Otherwise the court may vacate or suspend the action appealed from in whole or in part, as the case may require, and thereupon the matter shall be remanded to the commission for further action in conformity with the decision of the court.

**Subd. 8. Stay.** The taking effect of any action of the commission shall not be stayed by an appeal except by order of the court for cause shown by the appellant. The granting of a stay may be conditioned upon the furnishing by the appellant of such reasonable security for costs as the court may direct. A stay may be vacated on application of the commission or any other party after hearing upon notice to the appellant and to such other parties as the court may direct.

**Subd. 9. Order prima facie reasonable and valid.** In any appeal or other proceeding involving any order, rule, regulation, or other decision of the commission, the action of the commission shall be prima facie reasonable and valid, and it shall be presumed that all requirements of the law pertaining to the taking thereof have been complied with. All findings of fact made by the commission shall be prima facie evidence of the matters therein stated. The burden of proving the contrary of any provision of this subdivision shall rest upon the appellant or other party questioning the action of the commission.

**Subd. 10. Collateral attack.** If no appeal be taken from an order, rule, regulation, or other decision of the commission as herein provided, or if the action of the commission be affirmed on appeal the action of the commission in the matter shall be deemed conclusive, and the validity and reasonableness thereof shall not be questioned in any other action or proceeding, but this shall not preclude the authority of the commission to modify or rescind its actions.

**Sec. 6. Cooperation.** Subdivision 1. **With other sovereign states.** The commission, so far as it is not inconsistent with its duties under the laws of this state, may assist and cooperate with any agency of another state, of the United States of America or of the Dominion of Canada or any province thereof in any matter relating to water pollution control.

**Subd. 2. Funds received from persons or agencies.** The commission may receive and accept money, property, or services from any person or from any agency described in Subdivision 1 or from any other source for any water pollution control purpose within the scope of its functions under this act, and all moneys so received are hereby appropriated for such purposes in like manner and subject to like provisions of law as the corresponding appropriations of state funds.

**Sec. 7. Interpretation.** This act shall not be construed as repealing any of the provisions of law relating to the pollution of any waters of the state, but shall be held and construed as supplementing the same and in addition to the laws now in force, except as the same may be in direct conflict herewith.

**Sec. 8. Violations and prohibitions.** Subdivision 1. **Obtain permit.** It shall be unlawful for any person to construct, install or operate a disposal system, or any part thereof, until plans therefor shall have been submitted to the commission unless the commission shall have waived the submission thereof to it and a written permit therefor shall have been granted by the commission.

**Subd. 2. Permission for extension.** It shall be unlawful for any person to make any change in, addition to or extension of any existing disposal system or part thereof that would materially alter the method or the effect of treating or disposing of the sewage, industrial waste or other wastes, or to operate such system, or part thereof as so changed, added to, or extend until plans therefor shall have been submitted to the commission unless the commission shall have waived the submission thereof to it and a written permit therefor shall have been granted by the commission.



**Subd. 3. Penalty.** Violation of any provision of this act or of any regulation adopted by the commission thereunder shall be a misdemeanor.

**Subd. 4. Injunction.** Pollution of any waters in violation of any provisions of this act, or of any order or regulation adopted by the commission thereunder shall constitute a public nuisance, and may be enjoined and abated as such as provided by law.

**Sec. 9. Systems now operating.** The commission, upon application of the appropriate person, shall issue a permit for the continuance of every disposal system now operating pursuant to proper legal authority subject, however, to the right of the commission to modify or revoke such permit in the same manner as other permits.

**Sec. 10. Preliminary notice in tort actions.** Every person who claims damages from the holder of a permit issued hereunder for the operation of a disposal system or from any employee or agent of such permit holder for or on account of any loss or injury sustained by reason of the operation of such system in respect of the treatment or disposal of sewage, industrial waste, or other wastes therein, or by reason of the discharge of any effluent therefrom, shall cause to be presented to such permit holder and to the secretary of the commission within 30 days after the alleged loss or injury occurred a written notice, stating the time, place, and circumstances thereof, and the amount of compensation or other relief demanded. No action therefor shall be maintained unless such notice has been given, or if commenced within ten days thereafter or more than one year after the occurrence of the loss or injury.

**Sec. 11. Citation.** This act may be cited as the State Water Pollution Control Act.

**Sec. 12. Minnesota Statutes 1941, Section 144.38, is amended to read as follows:**

**144.38. Pollution of waters. Subdivision 1. Board to administer laws.** The board is hereby given and charged with the power and duty of administering and enforcing all laws relating to the pollution of any of the waters of this state, so far as such pollution affects the public health.

**Subd. 2. Duty of board.** *The board shall make such investigations of water pollution and the plans for the construction of works affecting water pollution as may be required by the water pollution control commission. The board shall fur-*

*nish to such commission such other service as the commission may need in the administration of the State Water Pollution Control Act, including the employment of a qualified and experienced sanitary engineer, who shall be designated by the board, with the approval of the commission, to act as consultant to the commission.*

**Subd. 3. Cooperation.** The board is hereby specifically authorized to cooperate with other departments of state, other state officers, with municipalities of all kinds, with other states, the United States, *the Dominion of Canada or any province thereof*, industries, societies, corporations, and individuals, to the end and purpose of protecting and freeing the waters of the state from pollution.

Approved April 19, 1945.

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#### CHAPTER 396—S. F. No. 501

*An act relating to the acquisition and operation of recreational facilities by municipal corporations and incorporated posts of the American Legion, or any other incorporated veterans' organization, amending Minnesota Statutes 1941, Sections 471.15 and 471.16.*

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

Section 1. Minnesota Statutes 1941, Section 471.15, is amended to read as follows:

**471.15. Municipalities may acquire and operate recreational facilities.** Any city, however organized, or any village, borough, town, county, school district, or any board thereof, *or any incorporated post of the American Legion or any other incorporated veterans' organization*, may operate a program of public recreation and playgrounds; acquire, equip, and maintain land, buildings, or other recreational facilities; and expend funds for the operation of such program pursuant to the provisions of sections 471.15 to 471.19, provided that the provisions of those sections shall not apply to any municipality coming within the provisions of sections 471.20 to 471.23.

Sec. 2. Minnesota Statutes 1941, Section 471.16, is amended to read as follows: