

CHAPTER 531—H. F. No. 1497

An act relating to drainage; amending Minnesota Statutes 1949, Section 106.521.

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

Section 1. Minnesota Statutes 1949, Section 106.521, is amended to read:

106.521 **Laterals.** Persons owning property in the vicinity of an existing public drainage system may petition for a lateral or a lateral system connecting such lands with the drainage system. The petition shall be signed by 26 percent of the resident owners of the property or by the owners of 26 percent of the area of the property traversed by such lateral or lateral system, if the lands *to be drained* by the lateral are situated in one county, the petition shall be filed with the auditor. If such lands extend into two or more counties, the petition shall be filed with the clerk. The petition shall describe in general terms the starting point, general course and terminus of the proposed lateral or lateral system, together with the lands traversed thereby, and shall set forth the necessity for the construction thereof, and that the same, if constructed, will be of public benefit and utility and promote the public health, and praying that said lateral be constructed and connected with said ditch. The petition shall provide that the petitioners will pay all costs and expenses which may be incurred in case the proceedings are dismissed or if for any reason no contract for the construction thereof is let. The petitioners shall give bond as provided by *Minnesota Statutes*, Section 106.041, and thereafter the proceedings shall be had and carried to final determination under the provisions of this chapter the same as original proceedings for a ditch system. *No lateral or lateral system shall be constructed for the drainage of lands not assessed benefits for such existing public drainage system until express authority for the use of the existing system as an outlet for such lateral or lateral system has been granted pursuant to proceedings under Minnesota Statutes, Section 106.531.*

Approved April 21, 1953.

CHAPTER 532—H. F. No. 1498

An act relating to drainage; amending Minnesota Statutes 1949, Section 106.471, Subdivision 4.

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

Section 1. Minnesota Statutes 1949, Section 106.471, Subdivision 4, is amended to read:

Subd. 4. **Petitions; proceedings.** (a) Upon the filing of a petition by any party or corporation, municipal or otherwise, interested in or affected by a drainage system, with the auditor in the case of a drainage system lying wholly within the county, or with the clerk of the district court having jurisdiction over said ditch in the case of a drainage system affecting two or more counties, therein setting forth that the drainage system is out of repair, it shall be the duty of the auditor in the case of a drainage system lying wholly within the county to present the same to the county board at its next meeting, and of the clerk in the case of a drainage system affecting two or more counties, to present the petition to the judge of the court within ten days from the filing thereof. Thereupon, if it appears to the board or court that such ditch is out of repair, the board or court shall appoint an engineer to examine the ditch and make report of the necessary repairs, with the estimated cost thereof, and all details, plans and specifications required to supply the necessary details to let a contract therefor. The board or court may order a hearing on the petition before appointing the engineer on such notice as it may require, if a hearing is deemed advisable.

(b) Upon the filing of the engineer's report, notice of hearing thereon shall be given as required by section 106.101. If at this hearing it appears from the engineer's report and the evidence presented that the repairs recommended are necessary and for the best interests of the property owners affected, and the board or court shall so find, the board or court shall make findings and order accordingly. In the case of a drainage system lying wholly within the county, the order shall direct the county auditor and the chairman of the county board, and in the case of a drainage system affecting two or more counties the order shall direct the auditors of the several counties affected to proceed and let a contract for the repair of the system as shown in the engineer's report and as determined necessary by the board or court, in the manner provided in this chapter for original ditch construction.

(c) If the petition referred to in subparagraph (a) be made by the owners of not less than 26 percent of the area of the property affected by and assessed for the original construction of the ditch, and if upon the hearing required by subparagraph (b) it appears that the ditch is in need of repair so that it no longer serves its original purpose, then the board or court shall order the repairs and the letting of a contract therefor as provided by subparagraph (b); provided, that no

job of repair shall be ordered if it appears that the cost thereof will exceed the total benefits theretofore determined in the ditch proceeding.

(d) In all proceedings before the court, the judge shall, by order, apportion the costs and expenses between the several counties in the same manner as required in the original construction of the ditch.

(e) *If it is proposed to repair a ditch by resloping of open ditches, leveling waste banks, or removing trees, or by two or all of these actions, before ordering the repair, the board or court shall find and determine whether the resloping, leveling, and tree removal will require the taking of any property not contemplated and included in the original proceeding for the establishment of the ditch, and further, whether the waste bank leveling will directly benefit land upon which bank leveling is specified. If it appears that such resloping, leveling and tree removal will require such taking, or directly benefit such land, or both, before ordering the repair, the board or court shall appoint viewers to report thereon and hear and determine such damages and benefits, as provided by Minnesota Statutes, sections 106.151, 106.161, 106.171, 106.181, 106.191 and 106.201. Such damages, if any, shall be paid as provided by Minnesota Statutes, section 106.251 as a part of the cost of the repair, and such benefits, if any, shall be added to the benefits theretofore determined as the basis for the pro rata assessment for the repair of such ditch in such repair proceeding only.*

Approved April 21, 1953.

CHAPTER 533—H. F. No. 1499

An act relating to drainage; amending Minnesota Statutes 1949, Section 106.501, by adding new subdivisions.

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

Section 1. Minnesota Statutes 1949, Section 106.501, is amended by adding two subdivisions to read as follows:

Subd. 3. Definition, excludes extension of original ditch system. The improvement contemplated by this section may include extension only downstream to a more adequate outlet, not exceeding one mile, and the straightening, deepening, or enlarging of the original ditch system, including the construction of open ditches for relief of or in place of tile or the construction of tile in place of open ditch, but shall not include any