

previously employed such employee consents and agrees to pay the cost of the additional benefits gained by such employee as the result of the service rendered to such corporation such additional cost to be paid in the same manner as other benefits are paid for, as provided in Minnesota Statutes 1953, Chapter 422, authority being hereby granted to such corporation to pay such cost.

It shall be the duty of the city council or other chief governing body of such city, in addition to all other taxes levied by such city, to annually levy a tax for the purposes set forth in this chapter, and such tax when levied shall be extended upon the county lists and collected and enforced in the same manner as other taxes levied by such city are extended, collected and enforced. The proceeds of such taxes shall be paid into the city treasury to the credit of the retirement fund, which shall constitute and remain a special fund and shall be used only for the payment of obligation created pursuant to the provision of this chapter.

The rate of interest to be used as a basis for calculation, except as otherwise specified, shall be the average rate of interest received from the invested portion of the retirement fund, but not less than the average rate of interest paid by the banks of the city on savings deposits, calculated to the nearest one-fourth percent.

Approved April 26, 1957.

CHAPTER 728—H. F. No. 1862

An act relating to eminent domain proceedings; amending Minnesota Statutes 1953, Sections 117.16 and 117.20.

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

Section 1. Minnesota Statutes 1953, Section 117.20, is amended to read:

117.20 Proceedings by state, its agencies, or political subdivisions. *Subdivision 1.* In eminent domain proceedings instituted by the state or by any of its agencies or political subdivisions as petitioners under the provisions of this chapter, the procedure shall be as follows:

Subd. 2. The report of the commissioners shall be filed with the clerk of district court within 90 days from the date of the order appointing the commissioners, *unless such order otherwise prescribes*, but for cause shown upon written mo-

tion of the petitioner and not less than three days notice thereof duly served by mail or otherwise upon such respondents, or their attorneys who entered an appearance at the hearing on the petition or notified the petitioner of their formal appearance, the court may extend the time for making and filing the report. If the petitioner serves such motion and notice thereof by mail, such service shall be at least six days prior to the date of the hearing on the motion.

Subd. 3. Within seven days from the date of the filing of the report of commissioners, the petitioner shall notify each respondent or his attorney by mail of the filing of the report of commissioners setting forth the date of the report, the amount of the award, and all the terms and conditions thereof as the same pertain to such respondent. Such notification shall be addressed to the last known post-office address of each respondent and his attorney.

Subd. 4. At any time within 40 days from the date of the filing of the report, any party to the proceeding may appeal from any award of damages embraced in the report, or from any omission to award damages, by filing with the clerk a notice of such appeal; which shall specify the particular award or failure to award appealed from, the nature and amount of the claim, the land to which it relates, and the grounds of the appeal; and upon appeal the prevailing party shall recover costs and disbursements.

Subd. 5. Except as otherwise provided herein payment of the damages awarded may be made or tendered at any time after the filing of the report; and the duty of the public officials to pay the amount of any award or final judgment upon appeal shall, for all purposes, be held and construed to be full and just compensation to the respective owners or the persons interested in the lands. If either the petitioner or any respondent appeals from an award, the respondent or respondents, if there is more than one, except encumbrancers, having an interest in the award which has been appealed, may demand of the petitioner a partial payment of the award pending the final determination thereof, and it shall be the duty of the petitioner to comply with such demand and to promptly pay the amount demanded but not in excess of an amount equal to $\frac{3}{4}$ of the petitioner's estimate of the damages for the parcel which has been appealed. Such partial payment may be made in the same manner as other payments are made under this chapter. The petitioner, in making any partial payment of an award as provided herein, shall furnish the respondents to whom such partial payment is made a certificate attesting to his estimate of the damages upon which the partial payment

is based, and a duplicate thereof shall be filed in the office of the clerk of district court. A partial payment as herein provided shall not draw interest upon the amount thereof, and upon final determination of any appeal the total award of damages shall be reduced by the amount of the partial payment. If any partial payment exceeds the amount of the award of compensation as finally determined, the petitioner shall have a claim against the respondents receiving such payment for the amount thereof, to be recoverable in the same manner as in any civil action. Neither the certificate of the petitioner attesting to his estimate of damages nor any information therein contained shall be received in evidence in any action or proceeding concerning the value of the property covered thereby.

Subd. 6. The notice of filing of report provided for in section 117.09 shall be dispensed with; as shall also the final decree provided for in section 117.17, provided the attorney for the petitioner make a certificate describing the land taken and the purpose or purposes for which taken, and reciting the fact of payment of all awards or judgments in relation thereto, which certificate upon approval thereof by the court shall establish the rights of the petitioner in the lands taken and shall be filed with the clerk and a certified copy thereof filed for record with the register of deeds; which record shall be notice to all parties of the title of the state or of its agency or political subdivision to the lands therein described.

Subd. 7. The petitioner may, except as to lands already devoted to a public use, at any time after the filing of the order appointing commissioners for the condemnation of any land for a trunk highway, road, street, sanitary sewer, or storm sewer, or for material for the construction or improvement thereof, take possession of such land; and may at any time enter upon any lands and make surveys and examinations thereof in the location of trunk highways, roads, streets, sanitary sewer, or storm sewer, or in the acquisition of material for the construction or improvement thereof.

Sec. 2. Minnesota Statutes 1953, Section 117.16, is amended to read:

117.16 Interest; award, when payable; dismissal. All damages allowed under this chapter, whether by the commissioners or upon appeal, shall bear interest from the time of the filing of the commissioners' report. If the award be not paid within 70 days after such filing, or, in case of an appeal, within the like period after the final judgment thereon, the court, on motion of the owner of the land, shall vacate the award and dismiss the proceeding as against such land. When the proceeding is so dismissed or the same is discontinued by

the petitioner the owner may recover from the petitioner reasonable costs and expenses including fees of counsel.

Sec. 3. This act shall apply to eminent domain proceedings instituted thereunder on and after July 1, 1957.

Approved April 26, 1957.

CHAPTER 729—H. F. No. 1980

[Not Coded]

An act relating to certain taxes levied to provide funds for the construction, remodeling, altering and equipping of certain public buildings of the state of Minnesota and the issuance and sale of certain certificates of indebtedness in anticipation of the collection of such taxes; providing for a rate of interest on such certificates of indebtedness purchased by the state board of investment; amending Laws 1955, Chapter 855, Section 14, Subdivision 2.

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

Section 1. Laws 1955, Chapter 855, Section 14, Subdivision 2 is amended to read:

Subd. 2. Sale of certificates of indebtedness. The state auditor shall, in anticipation of the collection of the taxes levied in subdivision 1 hereof, issue and sell certificates of indebtedness in the amount and subject to the limitations herein prescribed. Such certificates shall be known as state building certificates of 1955-1974, and shall be issued as funds are needed for the purposes authorized herein, not exceeding the amount from time to time to meet the appropriations made by this act, and not exceeding \$28,803,432.35 in the aggregate. Such certificates shall be numbered consecutively and shall be issued and sold at not less than par upon sealed bids after two weeks' published notice, unless sold to the state board of investment, which may invest any funds under its control or direction in any such certificates of indebtedness so issued and to purchase such certificates, notwithstanding any limitations imposed by any law inconsistent herewith, at such rate of interest as it may determine. Such certificates shall be in such form and of such denominations and shall mature at such times as the state auditor shall determine, not exceeding the time when funds shall be available for the payment thereof from the tax levies herein authorized. Such certificates shall bear such rate of interest, payable semi-annually, and shall contain such other terms and provisions, not inconsistent here-

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