

licensee or operator of a visual or sound radio broadcasting station or network of stations, or any agent or employee of any such owner, licensee, or operator, is not liable for damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast, by any one other than such owner, licensee, or operator, or agent or employee thereof, if such owner, licensee, operator, or such agent or employee, shows that he has exercised due care to prevent the publication or utterance of the statement in that broadcast. *Provided, however, the exercise of due care shall be construed to include a bona fide compliance with any federal law or the regulation of any federal regulatory agency.*

The provisions of this act shall not affect any action or proceeding now pending or which shall be commenced within six months after the passage thereof, in any of the courts of the state.

Approved April 26, 1957.

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#### CHAPTER 740—S. F. No. 1424

[Coded]

*An act relating to duties of the state water resources board; providing for hearings on and recommendations in respect to state water policy in certain statutory proceedings.*

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

Section 1. [104.01] **Declaration of Policy.** The code of water law of Minnesota is contained in numerous statutes enacted from time to time, which must be considered as a whole to effect a systematic administration of water policy for the public welfare. Seeming contradictions in these laws when applied in a specific proceeding create a need for a forum where the conflicting aspects of public interest involved can be presented and by consideration of the whole body of water law the controlling policy can be determined and apparent inconsistencies resolved.

Sec. 2. [104.02] **Definitions.** Unless the context clearly indicates a different meaning is intended, the following terms for the purposes of this chapter shall be given the meanings ascribed to them in this section.

Board—Minnesota Water Resources Board.

Proceeding—Any procedure under any of the laws enu-

merated in Section 3 however administrative discretion or duty thereunder may be invoked in any instance.

**Agency**—Any state officer, board, commission, bureau, division, or agency, other than a court, exercising duty or authority under any of the laws enumerated in Section 3.

**Question of water policy**—Where use, disposal, pollution, or conservation of water is a purpose, incident, or factor in a proceeding, the question or questions of state water law and policy involved, including either (a) determination of the governing policy of state law in the proceeding, resolving apparent inconsistencies between different statutes, (b) the proper application of that policy to facts in the proceeding when application is a matter of administrative discretion, or both (a) and (b).

**Sec. 3. [104.03] Additional duties of board.** In addition to duties elsewhere prescribed, the board has the function defined in this act when the decision of the agency in a proceeding involves a question of water policy in one or more of the areas of water conservation, water pollution, preservation and management of wildlife, drainage, soil conservation, public recreation, forest management, and municipal planning under any of the following: Minnesota Statutes 1953, Sections 84.57, 97.48 (Subdivision 13), 105.41, 105.42, 105.43, 105.44, 105.64, 106.021, 144.373, 144.374, 144.375, 144.38, 144.39, and Chapter 110.

**Sec. 4. [104.04] Petition for intervention.** Subdivision 1. The board's intervention is invoked by a petition addressed to it for referral of a question of water policy involved in the proceeding. The petition must identify the proceeding in which it is made and state the grounds for referral generally but in sufficient detail to inform interested parties of the nature of the questions proposed to be presented to the board and the public importance thereof.

Subd. 2. This petition can be made by the applicant in the proceeding, by any party thereto, the governor, the agency, the commissioner or director of any division in the Department of Conservation, the head of any other department of state, any bureau or division of the federal government a function of which includes a concern in the proceeding, and any organization or group of persons of appropriate purpose, or person, the board deems representative of any substantial segment of the state or peculiarly able to present evidence bearing on the public interest. The petition signed by the petitioner's attorney or verified by the petitioner, or on behalf of the peti-

tioner by any of its officers, shall be filed in duplicate, one counterpart with the board, the other with the agency.

Subd. 3. The intervention of the board can be invoked by this petition in any proceeding at any time after the proceedings is initiated and before hearing is concluded, or if there is no hearing before the agency's order is made.

Sec. 5. [104.05] **Petition abates proceeding until board acts.** A filed petition abates the proceeding until there is a recommendation by the board or until sixty days have elapsed after conclusion of hearing before the board, whichever is earlier, unless the agency makes a finding in writing with a statement of reasons that the public interest requires immediate action by it. In all cases the board or its staff according to its rules decides whether the petition and the record made before the agency show an important question of water policy. If the decision on that question is negative it refuses to intervene, and the proceeding continues in the agency as though the petition had not been made; if the decision is affirmative and the board believes its intervention in the public interest is justified, it consents to intervene. Consent is shown by a brief statement in general terms of the questions of public policy it will consider.

Sec. 6. [104.06] **Hearings, determination.** As a petition is filed the board proceeds with all reasonable dispatch to hear, determine, and make its recommendation on the questions it has consented to consider. The hearings are so conducted that the board may be fully informed about all aspects of the public interest in those questions, to the end that its recommendation will state an impartial, scientific, and fully considered judgment. The recommendation of the board is its decision on the question of water policy considered by it; the ultimate question to which the board's recommendation is directed in all cases is the proper course of action to be followed by the agency in the proceeding in relation to questions of water policy considered by the board. The decision of the board is in the form of a written recommendation to the agency; it must recite controlling facts in sufficient detail to apprise the parties, the agency, and a reviewing court of the basis and reason therefor. In the proceeding and upon any judicial review the recommendation is evidence. A copy, certified, is competent evidence of the recommendation.

Sec. 7. [104.07] **Contest, notice and procedure.** When a consent, notice, or recommendation is made by the board a copy is filed with the agency, and such filing is notice thereof. The board's rules may provide for a notice, in addi-

tion to such filing by mail, posting, publication, or otherwise which it deems will practically give information to parties and interested persons of its actions. For the purposes of carrying out the provisions of this act the chairman of the board, or any member thereof, has the power to subpoena witnesses, to administer oaths and to compel the production of books, records, and other evidence. Disobedience of any such subpoena, or refusal to be sworn, or to answer as a witness, shall be punishable as a contempt of the district court on complaint of the board, or any member thereof, before the district court of the county where such disobedience or refusal occurred. Witnesses receive the same fees and mileage as in civil actions. All persons are sworn before testifying and the right to examine or cross-examine is the same as in civil actions. All hearings are public, conducted by the board or any authorized member thereof, and all affected persons have the opportunity to be heard. The board provides a stenographer to take the testimony and all proceedings at the hearings are recorded and preserved. All hearings are conducted insofar as practicable in the same manner as civil actions. It is proper for the divisions of state government and the agencies thereof to adopt opposite positions in respect to the matter before the board when full advocacy will assist to disclose the public interest.

**Sec. 8. [104.08] Findings by board.** Within sixty days of the close of any hearing the board makes its findings and recommendations based solely on the evidence adduced at the public hearing. Hearings may be continued from time to time as the situation may require.

Approved April 26, 1957.

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CHAPTER 741—S. F. No. 1534

[Not Coded]

*An act relating to rights of veterans employed by or seeking employment of cities of the first class having a population of not more than 150,000 inhabitants and independent school districts wholly located therein.*

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

**Section 1. Duluth, employment of veterans.** In all cities of the first class now or hereafter having a population of not more than 150,000 inhabitants, veterans applying for employment or promotion to any such city or to an independ-