

subdivisions shall enforce the interstate compact on juveniles and shall do all things appropriate to the effectuation of its purposes which may be within their respective jurisdictions.

Approved April 29, 1957.

CHAPTER 893—H. F. No. 1449

An act relating to drainage and the replacement of bridges and culverts in public ditch repair proceedings; amending Minnesota Statutes 1953, Section 106.471, Subdivision 4.

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

Section 1. Minnesota Statutes 1953, Section 106.471, Subdivision 4, is amended to read:

Subd. 4. **Petition; 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, 106.191 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.

If in proceedings under this chapter for the repair of a ditch the engineer determines that by reason of the inclusion of added lands under subdivision 7 or otherwise, any bridge constructed or culvert installed as a part of the original ditch, or any bridge constructed or culvert installed later as a replacement of such original bridge or culvert, or in proceedings

for the improvement of such ditch, provides insufficient waterway opening for the efficient operation of said ditch to serve its original purpose, he shall so report to the court or board and shall include in his report plans and specifications of replacement bridges and culverts required to supply the necessary details to let a contract therefor, together with the estimated cost thereof.

Upon the filing of the engineer's report notice of hearing on such report shall be given as provided by section 106.101 and such notice may be given in conjunction with and as a part of the notice required under subparagraph (b), but the notice shall specifically state that the enlargement of such waterway openings will be considered by the court or board at such hearing.

Upon hearing on the engineer's report the board or court shall hear all interested parties and if the board or court finds that existing bridges and culverts provide insufficient waterway openings for the efficient operation of the ditch as originally constructed or subsequently improved, the board or court shall make findings accordingly, and may order that such waterway openings be enlarged and that bridges be constructed or culverts be installed of such capacity as will provide such efficient waterway openings and shall determine the kind of and plans for such replacement bridges or culverts, which order shall direct the state and each municipality, railroad company or other corporation to construct any bridge or culvert required by such order upon its road or right-of-way within a reasonable time named in the order, and the auditor or clerk shall notify the state, municipality, railroad company or other corporation to construct same in accordance with the order.

If the work is not done within the time limited, the county board or district court may order the same built and the cost thereof collected from it as in case of an assessment for benefits.

If, however, any municipality, railroad company or other corporation, upon such hearing or upon being notified to construct any bridge or install any culvert, requests that such bridge or culvert be installed as part of the repair of the drainage system, the board or court may so order and order the cost thereof assessed and collected from such municipality, railroad company or other corporation in the manner provided by subdivision 5.

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