

## CHAPTER 601—H. F. No. 960

[Coded in Part]

*An act relating to watershed districts; amending Minnesota Statutes 1957, Sections 112.35; 112.36, as amended; 112.37, Subdivision 1, as amended, and adding a new Subdivision; 112.42, Subdivision 1; 112.42, Subdivision 3, as amended; 112.43, Subdivision 1; 112.45; 112.48, Subdivision 1, as amended; 112.48, Subdivision 2; 112.49, by adding a new Subdivision; 112.50, Subdivision 1, as amended; 112.53, Subdivisions 2 and 3; 112.59; 112.61, as amended; 112.69; 112.70; 112.71; 112.80, Subdivision 4, as amended; amending Laws 1959, Chapter 405, Section 1, and Laws 1959, Chapter 547, Section 1, Subdivision 1; and adding two new sections.*

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

Section 1. Minnesota Statutes 1957, Section 112.35, is amended to read:

112.35. **Definitions.** *Subdivision 1.* For the purposes of this chapter the terms defined in this section have the meanings ascribed to them.

~~(1)~~ *Subd. 2.* "Person" includes firm, copartnership, association, or corporation but does not include public or political subdivision.

~~(2)~~ *Subd. 3.* "Public corporation" means a county, town, school district, or a political division or subdivision of the state, other than a watershed district.

~~(3)~~ *Subd. 4.* "Board" means the state Minnesota water resources board established by the legislature Minnesota Statutes, Section 105.71.

~~(4)~~ *Subd. 5.* "Managers" means the board of managers of a watershed district.

~~(5)~~ *Subd. 6.* "Publication" means publication once a week for two successive weeks in accordance with Minnesota Statutes, Section 645.11.

~~(6)~~ *Subd. 7.* "Public health" includes any act or thing tending to improve the general sanitary conditions of the district.

~~(7)~~ *Subd. 8.* "Public welfare," "general welfare," and "public benefit" include any act or thing tending to improve or benefit or contribute to the safety or well-being of the general public or benefit the inhabitants of the district.

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~~(8)~~ *Subd. 9.* "County auditor" means the county auditor of any county affected by a watershed district.

~~(9)~~ *Subd. 10.* "Clerk" means the clerk of the district court of the county in which any judicial proceeding concerning a district is pending.

~~(10)~~ *Subd. 11.* "Engineer" means the engineer designated by the managers to act as engineer.

~~(11)~~ *Subd. 12.* "Appraisers" mean the persons appointed by the managers of the district to ascertain and report benefits and damages arising from proposed work.

~~(12)~~ *Subd. 13.* "Director" means the director of the division of water.

~~(13)~~ *Subd. 14.* "Commissioner" means the commissioner of conservation.

~~(14)~~ *Subd. 15.* "Petition" means an initiating petition for "work," and may consist of one or more petitions therefor.

~~(15)~~ *Subd. 16.* "Nominating petition" means an initiating petition for the creation of a watershed district, and may consist of one or more petitions therefor.

~~(16)~~ *Subd. 17.* "Hearing" means a hearing conducted by either the managers or the board, which, if conducted by the board pursuant to rules promulgated by it, may be formal, provided, however, that all interested parties shall be given a reasonable opportunity to be heard.

~~(17)~~ *Subd. 18.* "Interested party" means any public corporation or any person having an interest in the subject matter pending or involved, and shall include the director or any agency of government.

~~(18)~~ *Subd. 19.* "Work" or "works" means any construction, maintenance, repairs or improvements of a watershed district.

*Subd. 20.* "Notice by mail" or "mailed notice" means a notice mailed and addressed to each person entitled to receive notice if the address be known to the auditor or clerk, or can be ascertained by inquiry at the office of the county treasurer of the county wherein the affected land or property is located.

*Subd. 21.* "Resident owner" or "resident freeholder"

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*means the owner of land or the contract purchaser, and who resides in the state.*

Sec. 2. Minnesota Statutes 1957, Section 112.36, as amended by Laws 1959, Chapter 239, Section 1, is amended to read:

**112.36. Establishment of districts.** The board is hereby vested with jurisdiction, power, and authority, upon filing of a nominating petition, to establish a watershed district and define and fix the boundaries thereof, *all areas of which shall be contiguous and* which may be entirely within or partly within and partly without any county, and may include the whole or any part of any watershed or watersheds within the discretion of the board and may include the whole or any part of one or more counties, and to appoint the first board of managers thereof, as herein provided.

~~The territory embraced within a watershed district shall be contiguous, and when feasible it may include all territory within the affected watershed or drainage basin, or all territory from which the water from natural or artificial channels finds its outlet through a main stream or channel. A watershed district may be established for any or all of the following conservation purposes:~~

- (1) Control or alleviation of damage by flood waters;
- (2) Improvement of stream channels for drainage, navigation, and any other public purpose;
- (3) Reclaiming or filling wet and overflowed lands;
- (4) Providing water supply for irrigation;
- (5) Regulating the flow of streams and conserving the waters thereof;
- (6) Diverting or changing watercourses in whole or in part;
- (7) Providing and conserving water supply for domestic, industrial, recreational, or other public use;
- (8) Providing for sanitation and public health and regulating the use of streams, ditches, or watercourses for the purpose of disposing of waste;
- (9) Repair, improve, relocate, modify, consolidate, and abandon, in whole or in part, drainage systems within a watershed district;

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(10) Imposition of preventive or remedial measures for the control or alleviation of land and soil erosion and siltation of watercourses or bodies of water affected thereby;

(11) Regulating improvements by riparian landowners of the beds, banks, and shores of lakes, streams, and marshes by permit or otherwise in order to preserve the same for beneficial use.

Sec. 3. Minnesota Statutes 1957, Section 112.37, Subdivision 1, as amended by Laws 1959, Chapter 248, Section 1, is amended to read:

112.37. **Procedure for establishment.** Subdivision 1. Proceedings for the establishment of a watershed district shall be initiated only by the filing of a nominating petition with the secretary of the board, which nominating petition shall be signed either by not less than 25 percent of the resident freeholders of the proposed district, exclusive of the resident freeholders within the corporate limits of any city, village or borough on whose behalf the authorized officials have signed the petition, or by the authorized officials of any county, city, village, and borough authorized by resolution duly passed by the governing body thereof; ~~and, if signed by one or more counties, or by three or more cities, villages, and boroughs, the same need not be signed by any of the freeholders of the proposed district, which petition shall set forth the following: however, if signed by at least one-half of the counties within the proposed district or by a county or counties having at least 50 percent of the area within the proposed district; or by a majority of the cities, villages or boroughs within the proposed district, the same need not be signed by freeholders.~~

*Said nominating petition shall set forth the following:*

- (1) The name of the proposed district;
- (2) The necessity for the district, and why it would be conducive to public health and public welfare, or accomplish any of the purposes of a watershed district;
- (3) A statement in general terms setting forth the purpose of the contemplated improvements, the territory to be included in the district, and all proposed subdivisions thereof, if any, of the district;
- (4) The number of managers proposed for the district. The managers shall be not less than three nor more

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than five and be selected from a list of ten nominees. They shall be selected as representative of the local units of government affected and none shall be a public officer of the county, state, or federal government;

(5) A map of the proposed district;

(6) A request for the organization of the district as proposed.

The petitioners shall cause to be served upon the county auditor or auditors of the counties affected by the proposed district, the commissioner, and the director, a copy of said nominating petition, and proof of service thereof shall be attached to the original petition, to be filed with the secretary of the board.

Sec. 4. Minnesota Statutes 1957, Section 112.37, is amended by adding a new subdivision thereto:

*Subd. 5. No petition containing the requisite number of signatures or petitioners or signed by the requisite number of counties, cities, villages or boroughs shall be void or dismissed on account of any defects therein, but the board shall, at any time prior to the close of hearing, permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or by supplying any other defects therein. Several similar petitions, or duplicate copies of the same petition, for the organization of the same district may be filed and altogether be regarded as one petition. All petitions filed prior to the hearing hereinafter provided shall be considered by the board as part of the original petition.*

*After a petition has been filed, no petitioner may withdraw therefrom except with the written consent of all other petitioners filed with the water resources board.*

Sec. 5. Minnesota Statutes 1957, Section 112.42, Subdivision 1, is amended to read:

**112.42. Managers; organization, appointment of successors.** Subdivision 1. At the time of filing a certified copy of the findings and order with the secretary of state, the board shall cause personal service of a copy thereof to be made upon the managers named therein. Within 10 days after such personal service has been made the managers shall meet at the designated principal place of business of the district and shall take and subscribe the oath defined in

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the *Minnesota Constitution of the State of Minnesota*, Article V, Section 8, which oath as subscribed shall be forthwith filed with the secretary of the board. ~~The managers~~ *Each manager* shall thereupon file with the board a bond in the sum of \$1,000, the premium to be paid by the district for the faithful performance of ~~their~~ *his* duties. The amount of such bond may be increased by the board if in the judgment of the board it becomes necessary. The managers shall thereupon organize by electing one of their number as president, another as secretary, and another as treasurer, and provide the necessary books, records, furniture, and equipment for the conduct and the transaction of their official duties.

Sec. 6. Minnesota Statutes 1957, Section 112.42, Subdivision 3, as amended by Laws 1959, Chapter 340, Section 1, is amended to read:

Subd. 3. **Watershed districts, appointment of manager.** At least 30 days prior to the expiration of the term of office of the first managers named by the board, the county ~~board~~ *commissioners* of each county affected shall meet and proceed to appoint successors to the first managers. Provided, however, if the nominating petition that initiated the district shall be originated from ~~three or more~~ *a majority of the cities, villages, or boroughs within the district* the county ~~board~~ *commissioners* shall appoint the managers from a list of nominees submitted by the townships and municipalities within the district. Said list shall contain at least three nominees for each position to be filled. It shall be submitted to the affected county board at least 60 days prior to the expiration of the term of office. If such list is not submitted within 60 days prior to the expiration of the term of office the county commissioners shall select the managers from eligible individuals within the district. *Said county commissioners shall at least 30 days before the expiration of the term of office of any managers meet and appoint the successors.* If the district affects more than one county, distribution of the managers among the counties affected shall be as directed by the board. The term of office of each manager, if the number does not exceed three, shall be one for a term of one year, one for a term of two years, and one for a term of three years. If the managers consist of five members, one shall be for a term of one year, two for a terms of two years, and two for a term of three years. *If the district affects more than one county, the board shall direct the distribution of the one, two and three year terms among the affected counties.* Thereafter, the term of office for each

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manager shall be for a term of three years, and until his successor is appointed and qualified. Any vacancy occurring in an office of a manager shall be filled by the county board ~~in the same manner as the initial appointment.~~ *commissioners representing the county in which the vacating manager did reside.* ~~Such county board shall, at least 30 days before the expiration of the term of office of any manager, meet and appoint a successor.~~ A record of all appointments made under this subdivision shall be filed with the county auditor of each county affected, with the secretary of the board of managers, and with the secretary of the state water resources board. No person shall be appointed as a manager who is not a voting resident of the district and none shall be a public officer of the county, state, or federal government.

Sec. 7. Minnesota Statutes 1957, Section 112.43, Subdivision 1, is amended to read:

**112.43. Managers; powers, duties.** Subdivision 1. The managers, in order to give effect to ~~proper conservation practices within the scope of the proposed project and improvement the purposes of this chapter may:~~

(1) Make necessary surveys or utilize other reliable surveys and data and develop projects to accomplish the purposes for which the district is organized.

(2) Cooperate or contract with any state or subdivision thereof or federal agency or private or public corporation when ~~authorized by law.~~

(3) Construct, clean, repair, alter, abandon, consolidate, reclaim or change the course or terminus of any public ditch, drain, sewer, river, watercourse, natural or artificial, within the district.

(4) Acquire, operate, construct, and maintain dams, dikes, reservoirs, and appurtenant works.

(5) Regulate, conserve, and control the use of water within the district.

(6) Acquire by gift, purchase, or the right of eminent domain necessary real and personal property.

(7) Contract for or purchase such insurance as the managers deem necessary for the protection of the district.

(8) Establish and maintain devices for acquiring and recording hydrological data.

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(9) Enter into all contracts of construction authorized by this chapter.

(10) Enter upon lands within or without the district to make surveys and investigations to accomplish the purposes of the district. The district shall be liable for actual damages resulting therefrom.

(11) To take over when directed by the district court or county board all judicial and county drainage systems within the district, together with the right to repair, maintain, and improve the same. Whenever such judicial or county drainage system is taken over in whole or in part, the same, to the extent so taken over, shall become a part of the works of the district.

(12) *Provide for sanitation and public health and regulate the use of streams, ditches, or watercourses for the purpose of disposing of waste and preventing pollution.*

(13) *Borrow funds from any agency of the federal government.*

(14) *Adopt rules and regulations to effectuate the purposes of the act and the authority of the managers.*

Sec. 8. Minnesota Statutes 1957, Section 112.45, is amended to read:

112.45. **Employees, duties.** The managers may employ a chief engineer, professional assistants, and such other employees as may be necessary, and provide for their qualifications, duties and compensation; ~~which with all other necessary expenditures, shall be included as a part of the cost of the project or improvement.~~ The chief engineer shall be superintendent of all the works and improvements; he shall make a full report to the managers each year, or more often if necessary. A copy of such report and all recommendations by the chief engineer shall be transmitted to the managers and the director. The managers may require any officer or employee of the district to give a bond for the faithful performance of his duties, in an amount prescribed by them, the cost thereof to be paid from the funds of the district.

Sec. 9. Minnesota Statutes 1957, Section 112.48, Subdivision 1, as amended by Laws 1959, Chapter 243, Section 1, is amended to read:

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112.48. **Approval of subject and improvement plan; filing of petition; contents; bonds.** Subdivision 1. After the project and improvement plan of the district has been approved and adopted, as provided for in section 112.46, a petition may be filed with the managers for any project or improvement within the district conforming in general with said plan. The petition therefor must be signed by not less than 25 percent of the resident freeholders, or by the owners of more than 25 percent of the property within the limits of the area proposed to be improved, provided however if the project or improvement petition consists of a drainage proceeding as defined in Minnesota Statutes 1957, Chapter 106, such petition shall be signed by a majority of the resident owners of the land described in the petition or by the owners of at least 60% *percent* of the areas of such land. The lands described in the petition shall be those over which the proposed improvement passes or is located, or such petition may be signed by a county board of any county affected, or by the governing body of any city, village, or borough lying wholly or partly within the area proposed to be improved. Provided, however, if the proposed project affects lands exclusively within a city, village, or borough, the petition shall originate from the governing body of such city, village, or borough. For the purposes of this section, holders of easements for electric or telephone transmission or distribution lines shall not be deemed freeholders or owners. Such petition shall contain the following:

- (1) A description of the work proposed, the ~~plan of construction~~, and the purpose to be accomplished;
- (2) A description of the lands over which the proposed improvement passes or is located;
- (3) *A general description of* ~~The~~ the part of the district which will be affected, *is if* less than the entire district;
- (4) The need and necessity for the proposed improvement;
- (5) That the proposed improvement will be conducive to public health, convenience, and welfare;
- (6) ~~If the petition is not signed by a county board or the governing body of a city, village, or borough, that petitioners will pay all costs and expenses incurred thereby if the petition is not granted. A statement that the petitioners will~~

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*pay all costs and expenses which may be incurred in case the proceedings are dismissed or for any reason no contract for the construction thereof is let.*

Sec. 10. Minnesota Statutes 1957, Section 112.48, Subdivision 2, is amended to read:

112.48. Subd. 2. ~~The petition shall be accompanied by a bond in such an amount as the managers shall prescribe, conditioned that the petitioners, in case the petition is dismissed or denied, will pay all costs and expenses resulting therefrom. No bond shall be required when the petition is signed by a county board or the governing body of a city, village, or borough.~~

*Upon the filing of a petition and before any action is taken thereon one or more of the petitioners shall make and file a bond payable to the watershed district named in the petition in the sum of not less than \$2,000 with good and sufficient sureties, to be approved by the board of managers of the district with whom the bond is filed, conditioned to pay all costs and expenses which may be incurred in case the proceedings are dismissed or for any reason no contract is entered into for the construction of the improvement petitioned for. If the costs incurred or to be incurred exceed the amount of the existent bond the managers shall require an additional bond under the conditions and as provided in Minnesota Statutes 1957, Section 106.051, insofar as applicable. Provided that if the petition is signed by the proper officials of a county, city, village or borough no bond shall be required.*

Sec. 11. Minnesota Statutes 1957, Section 112.49, is amended by adding a new subdivision thereto:

*Subd. 6. Upon the filing of the engineer's report, a complete copy thereof shall be transmitted to the director by the managers.*

*The director shall examine the same and within 15 days make his report thereon to the managers. If he finds the report incomplete and not in accordance with the provisions of Minnesota Statutes, Chapter 112, he shall so report. If he approves the same as being a practical plan he shall so state. If he does not approve the plan he shall file his recommendations for changes deemed advisable, or if in his opinion the proposed project or improvement is not practical he shall so report. If a soil survey appears advisable he shall so advise and in such event the engineer shall make*

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*the soil survey and report thereon before the final hearing. The director's report shall be directed to and filed with the managers. Such report shall be deemed advisory only.*

*No notice shall issue for the hearing until the director's report is filed or the time for filing thereof has expired.*

Sec. 12. Minnesota Statutes 1957, Section 112.50, Subdivision 1, as amended by Laws 1959, Chapter 313, Section 1, is amended to read:

**112.50. Appraisers, duties.** Subdivision 1. Upon the filing of the engineer's detailed survey and report the managers shall, with the least possible delay, appoint three disinterested resident freeholders of the state to act as appraisers. These appraisers shall subscribe an oath to faithfully and impartially perform their duties, ~~and then proceed to personally inspect and examine all lands, and with or without the engineer, shall determine the benefits or damages to all lands and properties affected by the proposed project or improvement,~~ including lands owned by the state of Minnesota or any department thereof, highways, and other property likely to be affected by the proposed improvement or that may be used or taken for the construction or maintenance thereof. *Benefits and damages to lands owned by the state of Minnesota or any department thereof held and used for the purposes described in section 106.672 shall be determined subject to the provisions thereof, so far as applicable. The appraisers shall be governed by Minnesota Statutes 1957, Section 106.672.* The appraisers shall receive \$25 per day and necessary expenses while engaged in the performance of their official duties, to be paid by the district and included in the cost of improvement.

Sec. 13. Minnesota Statutes 1957, Section 112.53, Subdivision 2, is amended to read:

Subd. 2. The managers shall, *by publication*, cause notice of the time and place of such hearing to be given to all persons interested ~~by publication~~. Within one week after the beginning of publication, the managers shall ~~mail a printed copy of the notice~~ *give notice by mail of the time and place of hearing* to the director and to each person, corporation, and public body affected by the proposed improvement as shown by the engineer's and appraisers' reports.

Sec. 14. Minnesota Statutes 1957, Section 112.53, Subdivision 3, is amended to read:

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Subd. 3. Where the improvement affects the lands and properties in more than one county, separate notices shall be prepared ~~for use and published and mailed~~ in each county affected showing only the general description of the proposed improvement and the names and descriptions of the properties affected in the county. *Notice by mail as provided in subdivision 2 shall be given.*

Sec. 15. Minnesota Statutes 1957, Section 112.59, is amended to read:

112.59. **Control of contracts.** In all cases where contracts are let by the managers, they shall have full control of all matters pertaining thereto. If a contractor fails to complete the improvement within the time or in the manner specified in the contract, the managers may extend the time for completion or may refuse an extension of time or may cancel the contract and readvertise and relet the contract. They may require the surety for the contractor to complete the improvement or proceed to have the contract otherwise completed at the expense of the contractor and his surety. They may take such other action with reference thereto that the occasion may require in the interest of the district. The provisions of Minnesota Statutes, Chapter 106, so far as pertinent, apply to and govern the relations between the engineer and the contractor, including the examination and report of the engineer and the amount and time of payment. The managers shall keep an accurate account of all expenses incurred, *which shall include the compensation of the engineer and his assistants, the compensation and expenses of the appraisers as provided in section 112.50, the compensation of petitioners' attorney, the cost of petitioners' bond, the fees of all county officials necessitated by the improvement which shall be in addition to all fees otherwise allowed by law, and the time and expenses of all employees of the district, including the expenses of the managers while engaged in any improvement. The fees and expenses provided for herein shall be audited, allowed and paid upon the order of the managers and* ~~which~~ shall be charged to and be treated as a part of the cost of the improvement.

Sec. 16. Minnesota Statutes 1957, Section 112.61, as amended by Laws 1959, Chapter 271, Section 1, as amended by Extra Session Laws 1959, Chapter 67, Section 1, is amended to read:

112.61. **Funds of district.** The moneys of any dis-  
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trict organized under the provisions of this chapter consist of:

(1) ~~An initial organizational and administration~~ expense fund, which consists of an ad valorem tax levy, not to exceed ~~one~~ *two* mills on each dollar of assessed valuation of all taxable property within the ~~watershed district of~~ or \$20,000 whichever is the lesser. Such funds shall be used for organizational expenses, ~~and~~ preparation of an over-all plan, for projects and improvements; ~~general administrative expenses, and for projects of common benefits to the district.~~ The managers of the district shall be authorized to borrow from the affected counties up to 75 percent of the anticipated funds to be collected from the ~~initial organizational and administrative~~ expense fund levy and the counties affected are hereby authorized to make such advancements. The advancement of anticipated funds shall be apportioned among affected counties in the same ratio as the assessed valuation of the area of the counties within the ~~watershed district~~ bears to the assessed valuation of the entire ~~watershed district~~; thereafter there shall be levied an annual administrative expense fund not to exceed one mill on each dollar of assessed valuation of all taxable property within the ~~watershed or~~ \$10,000, whichever is the lesser, as provided in Laws 1959, Chapter 256. *In the event an established district is enlarged, an organizational expense fund may be levied against the area added to the district in the same manner as above provided. Unexpended funds collected for the organizational expense may be transferred to the administrative fund and used for the purposes authorized therein;*

(2) *An administrative fund, which consists of an ad valorem tax levy not to exceed one mill on each dollar of assessed valuation of all taxable property within the district, or \$20,000, whichever is the lesser. Such funds shall be used for general administrative expenses and for projects of common benefit to the district. The managers may make an annual levy for this fund as provided in section 112.611;*

~~(2)~~ (3) A bond fund, which consists of the proceeds of bonds issued by such district, as herein provided secured upon the property of the district which is producing or is likely to produce a regular income and is to be used for the payment of the purchase price of the property or the value thereof as fixed by the court in proper proceedings, and for the improvement and development of such property;

~~(3)~~ (4) A construction and maintenance fund, which

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is to be supplied by the sale of county bonds and by special assessments to be levied as herein provided to supply funds for the construction and maintenance of the improvements of the district, including reservoirs, ditches, dikes, canals, and other works, together with the expenses incident thereto and connected therewith;

(4) (5) A preliminary fund, which consists of funds provided as herein specified, and is to be used for preliminary work on proposed works of the district.

Sec. 17. Minnesota Statutes 1957, Section 112.69, is amended to read:

112.69. **Construction by governmental agencies; appraisers' report.** Subdivision 1. Where an improvement is *to be constructed within the district by the State of Minnesota, or any department thereof, or by the United States of America, or any department thereof,* under a contract between the managers of said district and *a governmental agency the state of Minnesota, or any department thereof, or by the United States of America, or any department thereof,* wherein the cost of the improvement is *to be paid* for by the governmental agency but the rights-of-way, legal, ~~engineering,~~ and general expenses of the improvement are assumed by the district, the managers shall; ~~upon the completion of the project,~~ appoint three disinterested freeholders of the state to act as appraisers. After the appraisers so selected subscribe to an oath to faithfully and impartially perform their duties, ~~they shall proceed to personally inspect all lands, highways, and other property affected by the improvement as certified by the district engineer they shall, with or without the engineer, determine the benefits or damages to all lands and properties affected by the proposed improvement.~~ They shall make and file with the managers a detailed statement showing the actual damages that have resulted or will result to individuals, property, or corporations from the construction of the improvement and make and file with the managers a detailed statement and list of lands and other property, including highways and corporations, receiving actual benefits by way of drainage, control of flood waters, or by other means herein authorized.

Subd. 2. Upon the filing of the appraisers' ~~and the engineer's~~ report *and the plans and engineering data prepared by the governmental agency* the managers shall prepare a detailed statement of all costs and damages *to be* incurred in the construction of the improvement. ~~and shall~~

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file the same, together with the engineer's report and the appraisers' report, and a petition for hearing upon these reports, with the clerk of the district court of the county in which the principal place of business of the district is located. Upon the filing of the petition and these reports, the clerk of the district court shall immediately notify the judge thereof. Within ten days thereafter, he shall by order fix a time and place within the district for a hearing upon the petition and reports, of which due notice shall be given by the clerk, by such publication as is determined by the court. Thereafter all proceedings shall be had as upon the hearing of the viewers' report in a drainage proceeding. *They shall within 35 days thereafter by order fix a time and place within the district for a hearing upon the report. The managers shall cause notice to be given by publication and mailing as above provided for a hearing on a petition. At the time and place specified in the notice, the managers shall hear all parties interested for and against the confirming of the report; and may order and direct the modification of the assessment of benefits and damages, and amend or change the list of properties reported as benefited or damaged. If the amended reports include property not included in the original report the managers shall adjourn and cause to be published and mailed as in the original notice the proper notice with reference to all lands and properties not included in the previous notice. If upon full hearing the managers find that the benefits resulting from the construction will be greater than the assessments and damages they shall confirm the report. All persons or public corporations affected by the order may appeal therefrom as herein provided.*

*Upon the filing by the managers with the auditor of any county of a statement listing the property and corporations benefited or damaged or otherwise affected by any improvement as found by the appraisers and approved by the managers, proceedings shall be had as provided in section 112.60.*

*Section 112.47 is not applicable to works of the district constructed under contract as provided in this section.*

Sec. 18. Minnesota Statutes 1957, Section 112.70, is amended to read:

112.70. **Claims for damages.** Every person or public corporation ~~who claims~~ *claiming* damages from the district for or on account of any loss or injury sustained by

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reason of any defect in the construction or operation of any improvement constructed by a governmental agency under contract with the managers, as herein provided, or by reason of the negligence of its officers, agents, servants, or employees, shall present to the managers at the office of the secretary, within 30 days after the alleged loss or injury, a written notice stating the time, place, and circumstances thereof and the amount of damages claimed or other relief demanded. No action therefor may be maintained unless such notice is given. The action shall be commenced within one year after the occurrence of the loss or injury.

Sec. 19. Minnesota Statutes 1957, Section 112.71, is amended to read:

**112.71. Use of water, contracts; notice, hearing.**  
*The rights enjoyed by landowners, whether private or corporate, to the use of the waters of the district for any purpose shall continue as they existed at the time of the organization of the district and all such rights then existing shall be recognized and observed by the managers, but when improvements made by the district make possible a greater, better or more convenient use of or benefit from the waters of the district for any purpose, the right to such greater, better or more convenient use of or benefit from such waters shall be the property of the district, and such rights may be leased or assigned by the district in return for reasonable compensation, as provided herein.*

All leases, assignments, permits or contracts for the use of water shall be entered into only after a report has been made by the managers of such district to the board setting forth the terms and conditions of the lease, permit, or contract relative to the use of any property of the district. The secretary of the board shall give due notice thereof to all parties interested, by mail, and shall cause to be published notice of the application, stating therein the purpose of the application and the time and place of hearing thereon. At the time of hearing the board shall hear all interested persons for or against such proposed contract and make its order accordingly upon such conditions and restrictions as may be necessary to protect the interest of the district and of the public.

Sec. 20. Minnesota Statutes 1957, Section 112.80, Subdivision 4, as amended by Laws 1959, Chapter 273, Section 1, is amended to read:

Subd. 4. Any person or public corporation appealing

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on the first or second ground named in subdivision 1, may include and have considered and determined benefits or damages affecting property other than his own. Notice of such appeal shall be served upon the owner or occupant of such other property or upon the attorney who represented such owner in the proceedings. Such notice of appeal shall be served upon the auditor of the county wherein the property is situate and upon the clerk of the district court of the county wherein the principal place of business of the district is located.

Sec. 21. Laws 1959, Chapter 405, Section 1, is amended to read:

Section 1. [112.791] **Review by board.** Any person or *public corporation* aggrieved by an order of the managers authorizing or refusing to establish any project and improvement in whole or in part may have such order reviewed by the board by serving a copy of a demand for such review upon the managers within 30 days after the filing of such order. Such demand shall state the grounds upon which such review is sought, and the original demand with proof of service attached shall be forthwith filed with the board. The board may provide by rule that a reasonable cost bond shall be required as a condition to a public hearing on any review to the end that as far as practicable appeals will have substantial merit. Thereupon the board shall consider said matter and may hold a public hearing in the manner provided herein upon a nominating petition. The board shall thereafter make an order amending, modifying, approving, or rejecting the order of the managers and remand the matter to the managers with directions to proceed in accord with the order of the board.

Sec. 22. Laws 1959, Chapter 547, Section 1, Subdivision 1, is amended to read:

Section 1. [112.792] **Appeals from decision of board.** Subdivision 1. Any person or *public corporation* aggrieved by any final order, rule, regulations, or final decision of the board may have the same reviewed by certiorari proceedings in the district court in the county in which a part of the district is located. The court of its own motion, or on application of any party, may, in its discretion, take additional testimony on any issue of fact, but no jury trial shall be had. If the court shall determine that the action of the board involved is lawful and reasonable and is warranted by the evidence in case an issue of fact is involved, the action

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of the board shall be approved; otherwise the court may vacate or suspend the action of the board involved, in whole or in part, as the case may require, and thereupon the matter shall be remanded to the board for further action in conformity with the decision of the court. The provision for review by certiorari, as herein provided, is not exclusive, and judicial action by mandamus, injunction, or other judicial remedy may be resorted to.

To render a review effectual, the aggrieved person or *public corporation* shall file with the clerk of the district court of the county wherein the principal place of business of the district is located, within 30 days of the date of such final order, rule, regulation, or decision an application for review together with the grounds upon which the review is sought.

Sec. 23. [112.761] **Proceedings for enlargement of district.** *Subdivision 1. Proceedings for the enlargement of an existing district shall be initiated by a petition filed with the secretary of the board. The required signatures on a petition to enlarge shall be the same as prescribed for a nominating petition, provided, however, the percentages shall be calculated only with reference to the territory which is proposed to be added to the district. Such petition shall state:*

(1) *That the area to be added is contiguous to the existing district;*

(2) *That it can be feasibly administered by the managers of the existing district;*

(3) *The reasons why it would be conducive to the public health and welfare to add the area to the existing district;*

(4) *A map of the affected area;*

(5) *The name of the enlarged district, if other than that of the existing district; and*

(6) *A request for the addition of the proposed territory.*

*The petition shall be served and the board shall proceed in a manner as prescribed for a nominating petition. The requirement of notice, and public hearings shall be as prescribed for the nominating petition.*

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**

*Subd. 2. Upon the hearing, if it appears to the board that the enlargement of the district as prayed for in the petition would be for the public welfare and public interest and the purpose of Minnesota Statutes, Chapter 112, would be served, it shall, by its findings and order, enlarge the district and file a certified copy of said findings and order with the secretary of state. The name of the district may be changed by order of the board if requested in the petition to enlarge the district.*

*Subd. 3. If the district, as enlarged, affects more than one county, distribution of the managers among the counties affected shall be as directed by the board in the order enlarging the district.*

**Sec. 24. [112.401] Hearings; reference.** *In any proceeding under Minnesota Statutes, Chapter 112, where a public hearing is required, the board may refer any question of fact to a member of the board or referee either to hear evidence and report it to the board or to hear evidence and make findings of fact and report them to the board.*

Approved April 20, 1961.

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#### CHAPTER 602—H. F. No. 965

*An act relating to criminal procedure, record of conviction and sentence, perpetuating evidence to accompany commitment of felons; and amending Minnesota Statutes 1957, Section 640.10.*

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

Section 1. Minnesota Statutes 1957, Section 640.10, is amended to read:

**640.10 Commitment papers; duties of clerk.** The clerk of every court by which a convict shall be sentenced to the state prison or ~~the~~ a state reformatory shall furnish to the officer or person having such convict in charge a record containing a copy of the indictment and plea, the name and residence of the judge presiding, of the prosecuting officer, of the convict's attorney, of the jurors, and of the witnesses sworn on the trial, ~~such synopsis of the testimony as the judge may direct,~~ the charge of the court, the verdict and the sentence, with the date thereof, together with the con-

**Changes or additions indicated by italics; deletions by ~~strikeout~~.**