

(4) *The lapse of a power of appointment during the life of the individual possessing the power shall be considered a release of such power. The preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property, which could have been appointed by exercise of such lapsed powers, exceeded in value, at the time of such lapse, the greater of the following amounts:*

(a) *\$5,000, or*

(b) *five percent of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied.*

Approved April 10, 1963.

CHAPTER 219—S. F. No. 954

[Not Coded]

An act relating to conservation; authorizing the commissioner of conservation to construct a water control structure upon lateral no. 4 of judicial ditch no. 7, Cass and Wadena counties, at the outlet of Dry Sand lake; and repealing Laws 1961, Chapter 396.

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

Section 1. Dry Sand lake; water level. The commissioner of conservation upon approval of the district court as hereinafter provided, and any law to the contrary notwithstanding, is hereby authorized to construct and maintain a water control structure upon lateral no. 4 of judicial ditch no. 7 downstream from the outlet of Dry Sand lake in Cass and Wadena counties, of a size to impound water in said lake not to exceed a surface area of 400 acres, for use by the public for boating, hunting and other recreational purposes.

Sec. 2. Before the commissioner shall construct such control structure he shall first obtain flowage easements from all of the owners of all of the land to be flooded thereby, and obtain easements and rights of way necessary for public access to Dry Sand lake.

Sec. 3. Said control structure shall be constructed and maintained so as to not impair the efficiency of lateral no. 4 of judicial ditch no. 7, Cass and Wadena counties, downstream from such control structure or upstream from the water impounded

Changes or additions indicated by italics, deletions by strikeout.

thereby in Dry Sand lake, unless the commissioner shall have first obtained an easement therefor from the owners of lands affected.

Sec. 4. The district court having jurisdiction over judicial ditch no. 7 is hereby fully empowered to make all orders necessary to effectuate the purposes of this act.

Sec. 5. Before commencement of the construction of the water control structure authorized by this act the commissioner of conservation shall file a petition for modification of the ditch by such construction with the clerk of the district court having jurisdiction over judicial ditch no. 7, and therein set forth detailed plans and specifications for the proposed control structure. The clerk of court shall promptly notify the judge thereof who shall order a hearing to be held upon the petition at such time and place as shall be agreed upon by the commissioner.

Sec. 6. Subdivision 1. Notice of the hearing shall state the pendency of the petition and the time and place set for the hearing. The notice shall contain a brief description of ditch modification petitioned for and the general location thereof, together with the description of the properties theretofor determined to be benefited or damaged by judicial ditch no. 7, and the names of the owners thereof as shown on the current tax rolls, and the municipal and other corporations affected thereby. It shall be sufficient if such names be listed in narrative form and if the lands affected be separately listed in narrative form by governmental sections or otherwise. Separate notices may be prepared for use and published, posted and mailed in each county affected, containing only the names of persons and corporations and descriptions of the properties affected in the county.

Subd. 2. The clerk of court shall cause such notice to be given to all persons interested by publication and by mail as defined in Minnesota Statutes 1961, Section 106.011, Subdivisions 2 and 3. Printed copies of the notices, so made for each county, shall be posted at least three weeks before the date of hearing in three public places in each township in each county where properties affected by judicial ditch no. 7 are situated and one at the front door of the courthouse in each county. Within one week after the beginning of publication, the clerk shall mail a printed copy of the notice to all persons, corporations and public bodies named therein.

Sec. 7. Upon due publication, posting and mailing of notice of hearing provided in section 6, the court shall have jurisdiction of all lands and properties described therein, and of all persons and corporations, municipal or otherwise, named therein, and all

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persons or corporations having any interest in any mortgage, lien or encumbrance against any of the lands or properties described therein.

Sec. 8. At the time and place specified in the notice, or at any adjournment thereof, the court shall consider the petition for the modification of judicial ditch no. 7. The court shall hear and consider the testimony presented in behalf of all parties interested. The engineer who prepared the plans and specifications, or his assistant therein, shall be present. The hearing may be adjourned from time to time as may be found necessary.

Sec. 9. If the court shall find that the modification of the ditch as petitioned for is in compliance with the provisions of this act, and will be in the best public interest and will provide substantial benefit to the public for boating, hunting and other recreational purposes, the court shall make findings accordingly and shall order the ditch system to be so modified. Such order modifying the ditch system shall have the same force and effect as the order originally establishing the ditch system.

Sec. 10. The order of the court modifying the ditch system shall provide that all construction and subsequent maintenance and repairs of the ditch modification shall be done and performed by the commissioner of conservation without any cost to the owners of lands and properties previously within the drainage system of judicial ditch no. 7.

Sec. 11. The commissioner of conservation, or any party aggrieved thereby shall have the same right of appeal to the district court or the supreme court from any orders issued by the court proceeding under this act as from a similar order made in a proceeding to establish a ditch system as provided in Minnesota Statutes 1961, Chapter 106; and on like grounds and with similar procedure.

Sec. 12. Laws 1961, Chapter 396 is hereby repealed.

Approved April 10, 1963.

CHAPTER 220—S. F. No. 1330

[Not Coded]

An act authorizing the issuance of bonds and making of capital loans by Independent School District No. 833.

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

Changes or additions indicated by italics, deletions by strikeout.