

(5) Trespasses upon the premises of another and, without claim of right, refuses to depart therefrom on demand of the lawful possessor thereof; or

(6) Occupies or enters the dwelling of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation. As used in this clause, "dwelling" means the building or part of the building used by an individual as a place of residence on either a full-time or a part-time basis. The dwelling may be part of a multi-dwelling or multi-purpose building, or a mobile home as defined in section 168.011, subdivision 8; or

(7) Enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing thereon without the permission of the owner or occupant; or

(8) Refuses the request of the operator of a public conveyance to either pay the required fare or leave the conveyance; or

(9) Takes any animal on a public conveyance without the consent of the operator;
or

(10) Without the permission of the owner, tampers with or gets into or upon a motor vehicle as defined in section 609.55, subdivision 1, or rides in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner; or

(11) Enters or is found upon the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public.

Approved March 23, 1978.

CHAPTER 513-H.F.No.838

[Coded in Part]

An act relating to natural resources; watershed districts; changing bonding provisions for managers; changing and clarifying administrative provisions; establishing a survey and data acquisition fund; creating fees for applications for permits and for field inspections; authorizing watershed districts to require a permit applicant to post a bond; providing penalties and enforcement provisions; amending Minnesota Statutes 1976, Sections 112.42, Subdivision 1; 112.43, Subdivision 1; 112.48, Subdivision 4; 112.49, by adding a subdivision; 112.50, Subdivision 1; 112.55; 112.61, by adding a subdivision; 112.62, by adding a subdivision; 112.69; 112.761, Subdivision 1; 112.85, Subdivision 1; and Chapter 112, by adding sections; repealing Laws 1969, Chapter 969.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 112.42, Subdivision 1, is amended to read:

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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 Minnesota Constitution, Article 5, Section 6, which oath as subscribed shall be forthwith filed with the secretary of the board. 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 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.

In lieu of the individual bonds required to be furnished by managers in a watershed district, a schedule or position bond or undertaking may be given by the managers of the watershed district or a single corporate surety fidelity, schedule or position bond or undertaking covering all managers and employees of the watershed district, including officers and employees required by law to furnish an individual bond or undertaking, may be furnished in the respective amounts fixed by law or by the person or board authorized to fix the amounts, conditioned substantially as provided in section 574.13.

Sec. 2. Minnesota Statutes 1976, Section 112.43, Subdivision 1, is amended to read:

112.43 MANAGERS; POWERS, DUTIES. Subdivision 1. The managers, in order to give effect to 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 and may initiate, undertake, and construct projects not required to be instituted by a petition under section 112.47.

(2) Cooperate or contract with any state or subdivision thereof or federal agency or private or public corporation or cooperative association.

(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, water supply systems, 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. The district may acquire such property without the district where

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necessary for a water supply system.

(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.

(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 the following: (a) any agency of the federal government; (b) any state agency; (c) any county in which the district is located in whole or in part; provided assessments are pledged to repay the amount of the loan; (d) a financial institution authorized under chapter 47 to do business in this state. A county board may lend the amount requested by a district. No district may have more than \$20,000 a total of \$50,000 in loans from counties and financial institutions under this clause outstanding at any time.

(14) Prepare a flood plain map of the lands of the district which are in the flood plain of lakes and watercourses, which map shall be made available to the counties and local municipalities for inclusion in flood plain ordinances and shall be in conformity with state regulations setting standards and criteria for designation of flood plain areas.

(15) Prepare an open space and greenbelt map of the lands of the district which should be preserved and included in the open space and greenbelt land areas of the district, which map shall be made available to the counties and local municipalities for inclusion in flood plain and shoreland ordinances.

(16) Appropriate necessary funds to provide for membership in a state association of watershed districts which has as its purpose the betterment and improvement of watershed governmental operations.

(17) Adopt rules and regulations to effectuate the purposes of the act and the powers of the managers. In the protection and the control of the use and development of land in the flood plain and the greenbelt and open space areas of the district, the managers shall have a limited authority to adopt ordinances to control encroachments,

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the changing of land contours, the placement of fill and structures of every type, to prevent the placement of encumbrances or obstructions and to require the landowner to remove such fill, structures, encumbrances, or other obstructions and to restore the previously existing land contours and vegetation. The managers may by ordinance provide a procedure whereby the district can do the work required and assess the cost thereof against the affected property as a special assessment. Such ordinances shall be applicable only in the absence of county or municipal ordinances for the regulation of those items set forth in this paragraph. Every ordinance shall be enacted by a majority vote of the managers of the district. The ordinance shall be signed by the secretary of the district and published once in a legal newspaper of the district. Proof of the publication shall be attached to and filed with the ordinance. Every ordinance shall be recorded in the official minute book and shall be substantially in the style, "The managers of the Watershed District ordain:".

No resolution, ordinance, rule, or regulation approved by the managers after August 1, 1978, which affects land or water within the boundaries of a home rule charter or statutory city shall be effective within the city's boundaries prior to notifying the governing body of the city.

Sec. 3. Minnesota Statutes 1976, Section 112.48, Subdivision 4, is amended to read:

Subd. 4. Works of the district which are to be paid by assessment upon benefited properties may be instituted upon a resolution of the board of managers, provided, the engineers' preliminary estimate of costs is not over ~~\$425,000~~ \$200,000 for any project in any calendar year, and that no such resolution shall be used for the establishment of a project, the essential nature and purpose of which is for drainage. The managers shall hold a public hearing on the proposed resolution for improvement following publication published once each week for two successive weeks. The publication shall be in a legal newspaper published in the county or counties in which the watershed district is situated, the last publication shall occur at least ten days before the meeting at which the resolution will be heard. The notice shall contain the following: The date, time and place of hearing, the substance of the proposed resolution, a statement that the improvement would be paid for by special assessment upon benefited property and that all persons who might be affected thereby or who may be interested therein may appear and be heard. Defects in the notice shall not invalidate the proceedings. The managers shall secure from the district engineer or other competent person of their selection a report advising them in a preliminary way as to whether the proposed improvement is feasible and the estimated cost thereof, no error or omission in the report shall invalidate the proceeding. The managers may also take such other steps prior to the hearing, as will in their judgment provide helpful information in determining the desirability and feasibility of the improvement. If after the hearing it appears to the managers that the proposed improvement is for public interest and welfare, and is practicable and in conformity with the overall plan of the district, they shall adopt a resolution therefor, properly identify the proceeding by name and number and shall cause to be made at the earliest time all necessary surveys and plans for the construction of the proposed improvement, as is provided in the case of a work instituted by petition. If the report of the engineer is unfavorable the managers shall fix a time and place for a hearing thereon in the matter provided for the hearing on the resolution. Thereafter the matter may be referred back to

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the engineer for further study and report or the managers may dismiss the proceeding. If the report of the engineer is favorable the matter shall proceed as in the case of a work instituted by petition as is prescribed by this chapter. Upon the filing by the managers with the auditor of a county of a statement listing the property and corporations benefited or damaged or otherwise affected by any improvement under this subdivision as found by the appraisers and approved by the managers, proceedings shall be commenced pursuant to section 112.60.

Sec. 4. Minnesota Statutes 1976, Section 112.49, is amended by adding a subdivision to read:

Subd. 7. The findings, recommendations and content of engineering reports for works under this chapter shall conform as nearly as practicable to the requirements of this section and a copy of each report shall be transmitted to the board by the managers.

Sec. 5. Minnesota Statutes 1976, Section 112.50, Subdivision 1, is amended to read:

112.50 **APPRAISALS.** Subdivision 1. Upon the filing of the engineer's 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 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 receive not to exceed \$35 per day and necessary expenses while engaged in the performance of their official duties. Each appraiser may be paid on a per diem basis for every day necessarily engaged in the performance of his duties and for his actual and necessary expenses. The compensation shall be fixed by the managers. to be paid by the district and included in the cost of improvement. The managers of the watershed districts may in their discretion use the following procedure for the purpose of determining benefits and damages. Upon the filing of the engineer's report the managers with the assistance of 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 from 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 managers shall also determine the amount to be paid and generally assessed by the watershed district for the basic water management portion of the improvement projects.

Sec. 6. Minnesota Statutes 1976, Section 112.55, is amended to read:

112.55 **ORDER OF MANAGERS ESTABLISHING IMPROVEMENT, FILING.**

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~~The~~ Any order of the managers establishing the improvement and authorizing the construction thereof shall forthwith be filed with the secretary of the district, and a certified copy thereof shall be filed with the auditor of each county affected, the board, the commissioner, the director, the Minnesota pollution control agency and the state department of health.

Sec. 7. Minnesota Statutes 1976, Section 112.61, is amended by adding a subdivision to read:

Subd. 8. A survey and data acquisition fund which shall be established or used only when no other funds are available to the district to pay for making necessary surveys and acquiring data. The fund consists of an ad valorem levy, which can be levied not more than once every five years, not to exceed one mill on each dollar of assessed valuation of all taxable property within the district. At no time shall the balance of the survey and data acquisition fund exceed \$50,000. In a subsequent proceeding for a work where a survey has been made, the attributable cost of the survey as determined by the managers shall be included as a part of the cost of the work and that sum shall be repaid to the survey and data acquisition fund.

Sec. 8. Minnesota Statutes 1976, Section 112.62, is amended by adding a subdivision to read:

Subd. 5. The district court may order a preliminary fund for all works of the district instituted pursuant to section 112.47.

Sec. 9. Minnesota Statutes 1976, Section 112.69, is amended to read:

112.69 CONSTRUCTION BY GOVERNMENTAL AGENCIES; PROCEDURE; CONVEYANCES TO FEDERAL GOVERNMENT. Subdivision 1. Where an improvement is to be constructed within the district under a contract between the managers of said district and 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~~ construction is to be paid for by the governmental agency but the rights-of-way, legal, and general expenses of the improvement are ~~assumed to be paid~~ by the district, the managers shall forward a copy of the improvement plan to the board and director for their reports thereon; thereupon, they shall hold a public hearing on the proposed contract authorized by section 112.67 following publication once each week for two successive weeks prior to the date of the hearing in a legal newspaper, published in the county or counties in which a part or all of the affected waters and lands are located. The last publication shall occur at least ten days before the hearing. The notice shall state the time and place of hearing, the general nature of the proposed improvement, the estimated cost thereof and the area proposed to be assessed. Not less than ten days before the hearing notice by mail shall be given to each resident owner, as shown on the county auditor's most recent records maintained for taxation purposes, within the area proposed to be assessed, and to the director and to each public body within the area to be assessed likely to be affected, but failure to give mailed notice or defects in the notice shall not invalidate the proceedings. At the time and place specified in the notice the managers shall hear all parties interested for and against the proposed project or improvement and

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all questions relative thereto shall be determined upon evidence presented at the hearing. If upon full hearing the managers find that the improvement will be conducive to public health and promote the general welfare, and is in compliance with the provisions and purposes of this chapter they shall make findings accordingly and authorize the project and enter into the proposed contract or other arrangement. Thereupon the managers shall 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, 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' report and the plans and engineering data prepared by the governmental agency the managers shall prepare a detailed statement of all costs ~~and including~~ damages to be incurred ~~by the district~~ in the construction of the improvement. They shall within 35 days thereafter by order fix a time and place within the district for a hearing upon the appraiser's 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 including~~ 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.

Subd. 3. When it is required that the board of managers acquire the fee simple estate or a lesser interest in real property pursuant to section 112.69 or convey to the United States government the fee simple estate or a lesser interest in real property, the managers shall, prior to the filing of the appraiser's report, record in the office of the county recorder of the county in which the lands are situated, a notice of the pendency of a proceeding initiated by the managers to acquire the lands to be conveyed to the United States government which notice shall state the purpose for which the lands are to be taken. At least 20 days before the hearing upon the appraiser's report, notice of the

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hearing in addition to that required by subdivision 2 hereof shall be served upon the owners of the property to be ~~conveyed to the federal government~~ acquired, in the same manner as the summons in a civil action, which notice shall describe the land, state by whom and for what purpose it is to be taken and give the names of all persons appearing of record or known to the managers to be the owners. The notice shall also state that appraisers have been appointed in the manner provided by subdivision 1 hereof, to determine the benefits and damages, and that a hearing will be held by the managers upon the appraiser's report at the time and place specified in the notice. When the managers have confirmed the appraiser's report listing the property benefited or damaged as provided in subdivision 2, the managers shall have all rights of possession and entry conferred in other cases of condemnation by chapter 117. Thereafter, the attorney for the managers shall make a certificate describing the land taken, the purpose for which taken, and reciting the fact of payment of all awards as determined by the appraisers appointed by the managers or judgments in relation thereto, which certificate, upon approval thereof by the managers, shall establish the right of the watershed district in the lands taken and shall be filed for record with the county recorder of the county in which the lands are situated, which record shall be notice to all parties of the title of the watershed district to the lands therein described. Thereafter the managers are authorized to convey such lands and interests acquired to the United States government, if necessary.

Sec. 10. Minnesota Statutes 1976, Section 112.761, Subdivision 1, is amended to read:

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. Service of the petition shall be made upon any affected watershed district.

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Sec. 11. Minnesota Statutes 1976, Section 112.85, Subdivision 1, is amended to read:

112.85 WITHDRAWAL OF TERRITORY. Subdivision 1. Proceedings to withdraw any territory from an existing district shall be initiated by a petition filed with the secretary of the board. The required signatures on a petition for withdrawal 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 withdrawn from the district. Such petition shall state that the territory so described has not received or will not receive any benefits from the operation of the district, that the district can perform the functions for which it was established without the inclusion of said territory and that said territory is not, in fact, a part of the watershed. The petition shall request the release of the described territory from the district.

The petition shall be served and the board shall proceed in a manner as prescribed for a nominating petition. The requirements for notices and public hearings shall be as prescribed for the nominating petition. Service of the petition shall be made upon any affected watershed district.

Sec. 12. Minnesota Statutes 1976, Chapter 112, is amended by adding a section to read:

[112.87] DAMAGES, PAYMENT. Section 117.115 shall not apply to any project to be financed by special assessment. When the damages for a project to be financed by special assessment are awarded and duly confirmed, the managers shall determine that the project's benefits exceed the total costs, including any damages awarded, and shall amend its statement filed with the county auditor pursuant to section 112.60, subdivision 1, to reflect the amount of damages awarded. Before entering upon any property for which damages were awarded in order to initiate the construction of the project, the managers shall pay the amount of damages awarded less any assessment against the property from the funds provided by the county board pursuant to section 112.60. In case of appeal of the amount of damages, no damages shall be paid until the final determination thereof.

Sec. 13. Minnesota Statutes 1976, Chapter 112, is amended by adding a section to read:

[112.88] FEE FOR PERMIT; BOND. Subdivision 1. A person applying for any kind of a permit required by the managers of a watershed district in a rule made pursuant to section 112.43, subdivision 1 (17), shall accompany his application with a permit application fee in an amount set by the managers not in excess of \$10 to defray the cost of recording and processing the application.

Subd. 2. The managers of a watershed district may charge, in addition, a field inspection fee of not less than \$35, which shall cover actual costs related to a field inspection, including investigation of the area affected by the proposed activity, analysis of the proposed activity, services of a consultant and any required subsequent monitoring of the proposed activity. Costs of monitoring an activity authorized by permit may be

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charged and collected as necessary after issuance of the permit.

Subd. 3. The fees in subdivisions 1 and 2 shall not be charged to an agency of the United States or any governmental unit in this state.

Subd. 4. The managers of a watershed district may require an applicant for a permit to file a bond with the managers in an amount set by the managers and conditioned on performance by the applicant of authorized activities in conformance with the terms of the permit.

Sec. 14. Minnesota Statutes 1976, Chapter 112, is amended by adding a section to read:

[112.89] ENFORCEMENT. Subdivision 1. A violation of a provision of this chapter or a rule, order or stipulation agreement made or a permit issued by the board of managers of a watershed district pursuant to this chapter is a misdemeanor.

Subd. 2. A provision of this chapter or a rule, order or stipulation agreement made or a permit issued by the board of managers of a watershed district pursuant to this chapter may be enforced by criminal prosecution, injunction pursuant to section 112.43, subdivision 2, action to compel performance, restoration, abatement and other appropriate action.

Sec. 15. Laws 1969, Chapter 969, is repealed.

Sec. 16. This act is effective the day following final enactment.

Approved March 23, 1978.

CHAPTER 514-S.F.No.403

An act relating to licensing boards; providing for reissuance of licenses from the board of architecture, engineering, land surveying and landscape architecture; amending Minnesota Statutes 1976, Section 326.11, Subdivision 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 326.11, Subdivision 5, is amended to read:

Subd. 5. REISSUANCE. The board may reissue a license to any person whose license has been suspended or revoked; provided ten or more members of the board vote in favor of such reissuance for reasons the board may deem sufficient upon application for relicensure.

Approved March 23, 1978.

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