

custodian of the securities shall, on the same day, forward by registered or certified mail to the public corporation and the depository, a receipt specifically describing and identifying both the substituted securities ~~so substituted~~ and those released and returned to the depository.

Subd. 11. "Municipality" for the purpose of this section means county, city, town, school district, hospital district, public authority, public corporation, public commission, special district, police or firefighter's relief association, volunteer firefighter's relief association, nonprofit corporation firefighter's relief association, any other statutory retirement association holding funds intended for retirement benefits for employees of a municipality, any other political subdivision, or agency of the state or of its subdivisions. *

Sec. 3. Minnesota Statutes 1978, Section 53.04, is amended by adding a subdivision to read:

Subd. 7. (a) The interest on loans made by an industrial loan and thrift company pursuant to subdivision 3 may be at a rate not in excess of nine percent discount per annum for loans which provide for a repayment period not exceeding 36 months; 8-3/8 percent discount per annum for loans which provide for a repayment period exceeding 36 months but not exceeding 48 months; and 7-3/4 percent discount per annum for loans which provide for a repayment period exceeding 48 months but not exceeding 60 months.

(b) This subdivision supersedes the provisions of subdivision 3 regarding the lawful rate of interest for loans made by industrial loan and thrift companies, but not any other provision of subdivision 3, from the effective date of this subdivision until June 30, 1982. A loan made by an industrial loan and thrift company that provides for a rate of interest authorized by this subdivision continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

Sec. 4. This act is effective the day following final enactment.

Approved April 11, 1980

* See the amendment to section 2 in Laws 1980, Chapter 618, Section 1.

CHAPTER 552—S.F.No. 1144

An act relating to public drainage systems; increasing repair authority; providing for abandonment of systems; increasing repair funds; amending Minnesota Statutes 1978, Sections 106.011, by adding a subdivision; 106.471, Subdivisions 2, 5 and 6; 106.651; and Chapter 106, by adding a section.

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

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Section 1. Minnesota Statutes 1978, Section 106.011, is amended by adding a subdivision to read:

Subd. 23. "Ditch authority" or "drainage authority" means the government unit having authority over a ditch or drainage system.

Sec. 2. Minnesota Statutes 1978, Section 106.471, Subdivision 2, is amended to read:

Subd. 2. **REPAIRS.** (a) After the construction of a ~~state, county or judicial~~ drainage system has been completed, the ~~county board~~ ditch authority shall maintain the same or such part thereof as lies within the ~~county~~ its jurisdiction and provide the repairs required to render it efficient to answer its purpose. The ~~board~~ drainage authority shall cause such drainage system to be annually inspected, either by a committee thereof, or a ditch inspector appointed by the ~~board~~ ditch authority, and, if the committee or inspector shall report in writing to the ~~board~~ drainage authority that repairs are necessary on any ditch system and such report is approved by the ~~board~~ drainage authority, it shall cause such repairs to be made within the limits hereinafter set forth. The ditch inspector may be the county highway engineer.

(b) If the ~~board~~ drainage authority finds that the estimated cost of repairs and maintenance of one ditch system for one year will be less than ~~\$10,000~~ \$20,000, it may have such work done by hired labor and equipment without advertising for bids or entering into a contract therefor. In one calendar year the ~~board~~ drainage authority shall not levy an assessment for repairs or maintenance on one ditch system in a sum greater than 20 percent of the benefits thereof in that county, or jurisdiction, or the sum of ~~\$10,000~~ \$20,000 if the said 20 percent is less than ~~\$10,000~~ \$20,000, except as provided in subdivision 4.

(c) Before ordering the levy of an assessment for repairs, the ~~county board~~ drainage authority, in its discretion, may give such notice of hearing thereon as it may deem necessary.

(d) In case of the destruction or impairment of a ditch system by floods or other casualty, or of unforeseen injuries where the public interests would suffer by delay, repairs or reconstruction may be made with or without advertising for bids and without regard to the ~~\$5,000~~ \$20,000 limitation. No work shall be undertaken nor a contract awarded under this clause, however, unless the area in which the ditch system is located has been declared a disaster area by the President of the United States and federal funds are available for such purpose.

Sec. 3. Minnesota Statutes 1978, Section 106.471, Subdivision 5, is amended to read:

Subd. 5. **ASSESSMENT; BONDS.** (a) If there are not sufficient funds to the credit of the drainage system so to be repaired, the county board shall apportion and assess the costs of the repairs pro rata upon all lands, corporations, and municipalities which have participated in the total benefits theretofore determined. Such assessments may be made payable in annual instalments to be specified in the order for assessment. If the assessments do not exceed 50 percent of

the original cost of the ditch, such instalments shall not exceed ten. But, if such assessments exceed 50 percent of the original cost of the ditch, the county board may order such assessments to be paid in instalments not to exceed 15. If such order shall provide for payment in instalments, interest from the date of the order for assessments shall be fixed by the county board in the order, at a rate not to exceed ~~six~~ seven percent per annum, on the unpaid assessments, and shall be collected with each instalment.

(b) If the assessment be not payable in instalments, no lien need be filed, and the assessment, plus interest from the date of the order to August 15 of the succeeding calendar year, shall be entered on the tax lists for the year and be due and payable with and as a part of the real estate taxes for such year. When any such assessment is levied and made payable in instalments, the county auditor shall file for record in the office of the county recorder an additional tabular statement in substance as provided in section 106.341, and all the provisions of sections 106.351, 106.371, and 106.381 relating to collection and payment shall apply thereto. Upon the filing of the tabular statement, the instalment and interest shall be due and payable and shall be entered on the tax lists and collected the same as the original lien.

(c) Whenever a contract for ditch repair has been entered into under this chapter, or such repair has been ordered to be constructed by hired labor and equipment, and when the county board has ordered the assessments to be paid in instalments, the county board may issue and sell bonds, as provided by section 106.411.

(d) In the case of the repair of a state drainage system established wherein no assessment of benefits to lands was made when such system was established, the board or court shall observe the requirements of this chapter, and appoint viewers to determine the benefits resulting from such repair and otherwise observe all requirements of this chapter in the procedure for the collection of such assessments as shall thereafter be made.

Sec. 4. Minnesota Statutes 1978, Section 106.471, Subdivision 6, is amended to read:

Subd. 6. **CREATION OF FUND.** For the purpose of creating a fund to the credit of any drainage system to be used for repairs exclusively, the ~~county board~~ drainage authority is authorized to apportion and assess the amount of the fund against all the parcels of land, corporations and municipalities theretofore assessed for benefits in proceedings for the construction of the ditch system, including lands not originally assessed therefor but subsequently found to be benefited according to law. The assessment shall be made pro rata according to benefits determined. The fund so created shall not exceed 20 percent of the ~~original cost of construction~~ assessed benefits of the ditch system ~~or \$40,000, whichever is the larger~~ . Whenever the fund to the credit of one ditch system shall exceed the larger of 20 percent of the ~~total original cost assessed~~ benefits of the ditch ~~or \$40,000~~ , no further assessment for the purpose of creating the fund shall be made until the fund shall have fallen below that percentage sum . Assessments shall be collected as provided in subdivision 5.

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The assessment, if provided in the order, may be made payable in equal annual instalments. Thereupon the county auditor shall file for record in the office of the county recorder a tabular statement as hereinbefore provided.

When any judicial or county drainage system within the county has been taken over by a watershed district pursuant to section 112.65, subdivision 1, or responsibility for repair and maintenance of the drainage system has been assumed by any other governing body, the county board may transfer from the ditch fund any surplus remaining to the repair fund of the watershed district or to the appropriate fund of any existing governing body having responsibility for repair and maintenance of the drainage system to which the fund was credited.

Sec. 5. Minnesota Statutes 1978, Section 106.651, is amended to read:

106.651 DIVERSION OF DRAINAGE AND PARTIAL ABANDONMENT.

After the construction of any ditch system, if waters are diverted from any lands or properties assessed for benefits from such ditch system so that the drainage therefrom no longer utilizes or affects the drainage system, or by reason of the construction of any dam authorized by law in the ditch system so that any such lands or properties above the dam can no longer utilize the system or receive benefits therefrom, then the owner or owners of such lands or properties may petition the ~~board or court~~ ditch authority for an order setting such lands or properties out of the drainage system , and abandoning any part of the drainage system which no longer serves a substantial useful purpose to any lands or properties remaining in the system and which is no longer of public benefit and utility. If the drainage system be entirely in one county, the petition shall be filed with the auditor for consideration and determination by the under the jurisdiction of a county board and, if the system be in two or more counties or joint county ditch board, the petition shall be filed with the clerk for consideration and determination by the court auditor of the appropriate county and, if the system be under the jurisdiction of a watershed district, the petition shall be filed with the secretary of the district. Upon the filing of the petition, the auditor, or the clerk, with the approval of the court secretary, shall fix a time and place for hearing thereon and shall give notice of the hearing by publication to all persons interested in the drainage system. Upon hearing, if it appears that the waters from lands and properties of petitioners have been diverted from the drainage system, or by reason of the construction of a dam above referred to the lands and properties can no longer utilize the system, and that such lands and properties are no longer benefited thereby and no longer utilize or affect the drainage system, and further, that setting such lands and properties off from the drainage system will not prejudice the owners of lands and properties remaining in the system, ~~the board or court~~ and if it appears that any part of the drainage system no longer serves a substantial useful purpose to any lands or properties remaining in the system and is no longer of a substantial public benefit and utility, the ditch authority shall so find and shall by order direct that the lands and properties of petitioners be set off from the drainage system, and that the part of the drainage system which no longer serves a substantial useful purpose to any lands or properties remaining in the system and is no longer of public benefit and utility be abandoned. No such order shall have effect to release such lands and properties from any lien there-

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tofore filed on account of the drainage system, nor shall it release such lands and properties from any assessment or lien thereafter filed for expenses incurred on account of such ditch prior to the date of the order. The lands and properties so set off shall be deemed no longer affected by the ditch as to any proceeding thereafter had for the repair or improvement thereof, and no lien or assessment shall thereafter be made against such lands and properties for repairs or improvements made subsequent to the date of the order.

Sec. 6. Minnesota Statutes 1978, Chapter 106, is amended by adding a section to read:

[106.652] CONSOLIDATION OR DIVISION. After the benefited area or areas of a drainage system has been redetermined by the ditch authority, as provided in section 106.465, or in connection with such proceedings, and in order to provide for the efficient administration of the system consistent with the redetermination of the benefited area or areas, the ditch authority may divide one system into two or more separate systems, consolidate two or more systems, transfer part of one system to another, or attach a part of a system which has been abandoned as provided in section 106.651 or 106.661 to another system. The action may be initiated by the ditch authority on its own motion, or by the filing of a petition by any party interested in or affected by the system. If the system is under the jurisdiction of a county board or joint county ditch board, the petition shall be filed with the auditor of the appropriate county. If the system is under the jurisdiction of a watershed board, the petition shall be filed with the secretary of the board. When directed to do so by resolution of the ditch authority or upon the filing of a petition, the auditor or secretary, shall fix a time and place for hearing and shall give notice by publication to all persons interested in the drainage system affected. If upon hearing it appears that the division of one system into two or more separate systems, or the consolidation of two or more systems, or the transfer of part of one system to another, or the attachment of a previously abandoned part of a system to another system is consistent with the redetermination of the benefited area or areas of the system, and would provide for the efficient administration of the system and would be fair and equitable, the ditch authority shall so order. No order shall have the effect to release any lands or properties from any lien or assessment filed for expenses incurred on account of any drainage system prior to the date of the order.

Sec. 7. This act is effective the day following its final enactment.

Approved April 11, 1980

CHAPTER 553—S.F.No. 1295

An act relating to contracts; making certain legal proceedings unenforceable unless in writing; providing for the admission of certain evidence.

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