

## CHAPTER 540 — S.F.No. 744

*An act relating to natural resources; changing and clarifying administrative provisions regarding watershed districts; increasing per diem for district managers; stating procedures for adopting rules by managers; requiring revision of certain plans every ten years; allowing cash bonds; clarifying emergency procedures; amending Minnesota Statutes 1980, Sections 106.271; 106.471, Subdivision 1; 112.35, Subdivision 19; 112.37, Subdivision 1; 112.39, Subdivision 1; 112.42, Subdivisions 3, 5 and 6; 112.43, Subdivisions 1, 3, and by adding a subdivision; 112.46; 112.47; 112.48, Subdivisions 1, 2, and 4; 112.49, Subdivisions 1 and 7; 112.58; 112.61, Subdivision 3; 112.62, Subdivision 1; 112.64; 112.65, Subdivision 2; and Minnesota Statutes 1981 Supplement, Section 112.53, Subdivision 1.*

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

Section 1. Minnesota Statutes 1980, Section 112.35, Subdivision 19, is amended to read:

Subd. 19. ~~“Work” or “works”~~ “Project” or “projects” means any construction, maintenance, repairs or improvements of a watershed district ~~and includes the including planning and development of projects to accomplish any of the purposes for which a district is organized.~~

Sec. 2. Minnesota Statutes 1980, Section 112.37, Subdivision 1, is amended to read:

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 by any one of the following groups: either by

- (1) at least one-half of the counties within the proposed district;
- (2) or by a county or counties having at least 50 percent of the area within the proposed district;
- (3) or by a majority of the cities within the proposed district;
- (4) or a nominating petition also may be filed if signed by at least 50 resident freeholders of the proposed district, exclusive of the resident freeholders within the corporate limits of any city on whose behalf the authorized official has signed the petition.

Said Subd. 1a. The nominating petition shall set forth the following:

- (1) The name of the proposed district and a statement in general terms setting forth the territory to be included in the district;
- (2) The necessity for the district, and why it the contemplated improvements within the district, and the reasons why the district and the contemplated

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improvements would be conducive to public health and public welfare, or accomplish any of the purposes of a watershed district this chapter;

(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 than five and be selected from a list of at least ten nominees. ~~They shall be selected as representative of the local units of government affected and none~~ No manager shall be a public officer of the county, state, or federal government, provided that a soil and water conservation supervisor may be a manager;

(5) ~~(4)~~ A map of the proposed district; and,

(6) ~~(5)~~ A request for the establishment of the district as proposed.

Subd. 1b. 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~~ the nominating petition, and proof of service ~~thereof~~ shall be attached to the original petition, to be filed with the secretary of the board.

Sec. 3. Minnesota Statutes 1980, Section 112.39, Subdivision 1, is amended to read:

Subdivision 1. At the time and place fixed for the hearing on the nominating petition, all persons interested in or affected by the ~~contemplated improvement proposed watershed district~~ shall be given an opportunity to be heard. The board may continue the hearing from time to time as it may deem necessary.

Sec. 4. Minnesota Statutes 1980, Section 112.42, Subdivision 3, is amended to read:

Subd. 3. At least 30 days prior to the expiration of the term of office of the first managers named by the board, the county 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 a majority of the cities within the district the county 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. Ten years after the order of establishment, upon petition of the county board of commissioners of any county affected by the district, the board after public hearing thereon, may redistribute the managers among the counties if such redistribution is in accordance with the policy and purposes of this chapter. No petition for the redistribution of managers shall be filed with the board more often than once in ten years. 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 term 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 manager shall be for a term of three years, and until his successor is appointed and qualified. If the district affects more than five counties, in order to provide for the orderly distribution of the managers, the board may determine and identify the manager areas within the territory of the district and select the appointing county board of commissioners for each manager's area. Any vacancy occurring in an office of a manager shall be filled by the appointing county board of commissioners. 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 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, provided that a soil and water conservation supervisor may be a manager.

Sec. 5. Minnesota Statutes 1980, Section 112.42, Subdivision 5, is amended to read:

Subd. 5. The compensation of the ~~members of the board of managers for meetings and for performance of other necessary duties~~ shall not exceed ~~\$35~~ \$50 per day, ~~and each member.~~ Managers shall be entitled to reimbursement for all traveling and other expenses necessarily incurred in the performance of his official duties.

Sec. 6. Minnesota Statutes 1980, Section 112.42, Subdivision 6, is amended to read:

Subd. 6. The managers shall adopt bylaws, ~~and rules, and regulations~~ not inconsistent with this chapter for the administration of the business and affairs of the district. Rules adopted under this subdivision are not subject to the provisions of section 8.

Sec. 7. Minnesota Statutes 1980, Section 112.43, Subdivision 1, is amended to read:

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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 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; (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 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~~ To 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 may adopt, amend or repeal rules to control encroachments, 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 rule 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:" The rules shall be applicable only in the absence of county or municipal ordinances for the regulation of those items set forth in this clause. The rules shall be adopted in accordance with section 8.

Subd. 1a. No resolution, ordinance, or 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. 8. Minnesota Statutes 1980, Section 112.43, is amended by adding a subdivision to read:

Subd. 1c. Each district shall adopt rules to accomplish the purposes of this chapter and to implement the powers of the managers. Rules of the district

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shall be adopted or amended by a majority vote of the board of managers, after public notice and hearing. They shall be signed by the secretary of the board of managers and shall be recorded in the board's official minute book. For each county of the district the board shall publish a notice of any hearing or adopted rules in one or more legal newspapers published in the county and generally circulated in the district, and shall file any adopted rules with the county recorder of each county affected. A copy of the rules shall be mailed by the board to the governing body of each municipality affected.

Any ordinance of a district in effect on the date of enactment of this section shall remain in full force and effect until the district adopts rules pursuant to this subdivision.

Sec. 9. Minnesota Statutes 1980, Section 112.43, Subdivision 3, is amended to read:

Subd. 3. The managers shall annually make and file a report of the financial conditions of the district, the status of all projects ~~and work~~ therein, the business transacted by the district, ~~and other matters affecting the interests of the district, and a discussion of the managers' intentions for the succeeding year.~~ Copies of ~~said the~~ report shall be transmitted to the secretary of state water resources board, the commissioner, and the director within a reasonable time.

Sec. 10. Minnesota Statutes 1980, Section 112.46, is amended to read:

**112.46 OVERALL PLAN.**

Subdivision 1. PLAN CONTENTS. The managers shall, within a reasonable time after qualifying, adopt an overall plan for any or all of the purposes for which a district may be established. The overall plan shall be composed of narrative statements of existing water and water related problems within the district, possible solutions thereto and the general objectives of the district. The overall plan may also include as a separate section any proposed ~~work or~~ projects. The separate statement of proposed ~~work or~~ projects or petitions for projects to be undertaken pursuant to the overall plan shall be considered as a comprehensive plan of the district for all purposes of review by the metropolitan council under section 473.165, if the district is within the metropolitan area.

Subd. 2. ADOPTION PROCEDURES. A copy of ~~such the~~ plan shall forthwith be transmitted to the county auditor of each county affected, the secretary of the board, the commissioner, the director, the governing bodies of all municipalities, any soil and water conservation district having territory within the district and the metropolitan council if the district is within the metropolitan area. Upon receipt of ~~such the~~ copy ~~the commissioner,~~ the director and the council shall examine ~~the same~~ it and within 60 days thereafter, unless ~~such the~~ time is extended by the board, the director and the council shall transmit to the board recommendations in connection therewith, a copy of which shall be transmitted to the managers, the county auditor of each county affected, the

governing bodies of all affected municipalities and any affected soil and water conservation districts. Within 45 days from receipt of the director's and the council's recommendations the board shall have a public hearing on the proposed overall plan. The provisions of this chapter relating to notice, time, and place of hearing upon a nominating petition governing shall govern the hearing. After ~~such~~ the public hearing the board shall, by its order, prescribe an overall plan for the district. A copy ~~thereof~~ of the order shall be transmitted to the managers, the county board of each county affected, the commissioner, the director, the governing bodies of all municipalities affected, any affected soil and water conservation districts and the council ~~whereupon said~~. Upon transmittal the plan shall become the overall plan for the district. Said The plan may be amended upon a petition submitted by the managers therefor, and the board shall have a hearing thereon, on the amendment in the same manner as in the original overall plan proceeding.

**Subd. 3. PLAN REVISION.** The managers and the board shall ~~review~~ revise the overall plan for the district at least once every ~~two~~ ten years after the board originally prescribes the overall plan and shall make ~~such~~ amendments ~~thereto as may be deemed it deems~~ advisable. The managers shall consider including the following items in the revised overall plan, and any other information deemed appropriate:

(1) Updates and supplements of the existing hydrological and other statistical data of the district;

(2) Specific projects completed;

(3) A statement setting forth the extent to which the purposes for which the district had been established have been accomplished;

(4) A description of problems requiring future action by the district;

(5) A summary of completed studies on active or planned projects, including financial data;

(6) An analysis of the effectiveness of the district's rules and permits in achieving its water management objectives in the district.

**Subd. 4. BOARD REVIEW OF REVISED OUTLINE.** After ten years and six months have elapsed from the date that the board prescribed an overall plan or the last revised plan, the managers shall adopt a revised overall plan outline and shall transmit a copy of the outline to the board. Upon receipt of a copy the board shall examine it and within 60 days thereafter adopt recommendations regarding the outline and report them to the managers.

**Subd. 5. FURTHER REVIEW.** Within 120 days after receiving the board's recommendations regarding the revised overall plan outline, the managers shall complete the revised overall plan. A copy of the plan shall be transmitted to the board, the county board and county auditor of each county affected, the

director, the governing bodies of all municipalities affected, any soil and water conservation district having territory within the district, and the metropolitan council if the district is within the metropolitan area. Upon receipt of the copy, the director and the council shall examine it and within 60 days thereafter, unless the time is extended by the board, the director and the council shall transmit recommendations on the revised plan to the board, a copy of which shall be transmitted to the managers, the county auditor of each county affected, the governing bodies of all affected municipalities, and any affected soil and water conservation districts.

Within 45 days from transmittal of the revised overall plan to the board, the board shall have a public hearing on the proposed revised overall plan. The provisions of this chapter relating to notice, time, and place of hearing upon a nominating petition shall govern this proceeding. After public hearing the board shall, by its order, prescribe a revised plan for the district. A copy of the revised plan shall be transmitted to the managers, the county board of each county affected, the commissioner, the director, the governing bodies of all municipalities affected, any affected soil and water conservation districts and the council. Upon transmittal the plan shall become the overall plan for the district.

Sec. 11. Minnesota Statutes 1980, Section 112.47, is amended to read:

**112.47 WORKS PROJECTS INSTITUTED.**

All ~~works~~ projects of the district which are to be paid by assessment upon the benefited properties, shall be instituted: (1) by a petition filed with the managers; ~~or~~ (2) by unanimous resolution of the managers; or (3) as otherwise prescribed by this chapter.

Sec. 12. Minnesota Statutes 1980, Section 112.48, Subdivision 1, is amended to read:

Subdivision 1. After the overall plan of the district has been prescribed by the board, 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 the plan. The petition ~~therefor~~ must be signed by:

(1) By not less than 25 percent of the resident freeholders, or by the owners of more than 25 percent of the land within the limits of the area proposed to be improved, provided however if unless the project or improvement consists of the establishment of a drainage proceeding system as defined in chapter 106, such petition shall be signed or the improvement of an existing drainage system;

(2) By a majority of the resident owners of the land described in the petition over which the proposed project passes or is located, or by the owners of at least 60 percent of the areas area of such the land. The lands described in the petition shall be those over which the proposed improvement passes or is located. For the purposes of this subdivision, holders of easements for electric or



~~telephone transmission or distribution lines shall not be deemed freeholders or owners; or, if the project consists of the establishment of a drainage system as defined in chapter 106;~~

(3) By not less than 26 percent of the resident owners of the property affected by the proposed project or over which the proposed project passes or by the owners of not less than 26 percent of the area affected or over which the proposed project passes if the project consists of the improvement of an existing drainage system as defined in chapter 106;

(2) (4) By a county board of any county affected; or

(3) (5) By the governing body of any city lying wholly or partly within the area proposed to be improved; provided, however, that if the proposed project affects lands exclusively within a city, the petition shall originate from the governing body of such the city.

For the purpose of this subdivision, holders of easements for electric or telephone transmission or distribution lines are not considered freeholders or owners.

Such The petition shall contain the following:

(1) (a) A description of the work proposed project, and the purpose to be accomplished;

(2) (b) A description of the lands over which the proposed improvement project passes or is located;

(3) (c) A general description of the part of the district which will be affected, if less than the entire district;

(4) (d) The need and necessity for the proposed improvement;

(5) (e) That the proposed improvement project will be conducive to public health, convenience, and welfare;

(6) (f) A statement that the petitioners will pay all costs and expenses which may be incurred in case the proceedings are dismissed or for any reason no construction contract for the construction thereof is let for the project.

Sec. 13. Minnesota Statutes 1980, Section 112.48, Subdivision 2, is amended to read:

Subd. 2. Upon the filing of a petition and before any action is taken ~~thereon~~ on it, one or more of the petitioners shall deposit not less than \$2,000 with the board of managers, conditioned to pay all costs and expenses incurred if the project petitioned for is not constructed. Alternatively, with the approval of the board of managers, one or more of the petitioners may 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

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of the district with ~~whom~~ which 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~~ project 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 section 106.051, insofar as applicable.~~

If it appears at any time prior to the making of the order establishing a project that the deposit or bond of petitioners is insufficient in amount to protect the watershed district from loss on account of any costs or expenses incurred or to be incurred, the watershed district shall require an additional deposit or bond. In that event all further proceedings shall be stayed until the deposit or bond is furnished and if the additional deposit or bond is not furnished within the time the watershed district fixes, the proceedings may be dismissed.

In all project proceedings, the expenses incurred prior to establishment shall not exceed the required deposit or the penalty named in the bond or bonds given by the parties. No claim in excess of the amount of the deposit or bond or bonds shall be audited or paid by direction of the watershed district unless one or more parties in the proceeding, within the time the watershed district directs, files an additional deposit or bond in an amount as directed by the watershed district.

Provided that If the petition is signed by the proper officials of a county or city, no bond shall be required.

Sec. 14. Minnesota Statutes 1980, 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~~ The board of managers may institute projects upon a resolution of not less than a majority of the board of managers, provided, the engineers' preliminary if:

(a) Each project is financed by one or more grants totaling at least 50 percent of the estimated cost; and

(b) The engineer's estimate of local costs to the district, including any assessments against benefited properties but excluding any state, federal or other grant, is not over \$200,000 \$750,000 for any single project in any calendar year, and that. No such resolution under this subdivision 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 the project~~ the project 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 the means of financing the project,~~ and a statement that all persons who might be affected ~~thereby by the project~~ or who may be interested ~~therein in it~~ 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 project~~ is feasible and ~~the estimated estimating the cost thereof, of the project.~~ No error or omission in the report shall invalidate the proceeding. The managers may also take ~~such~~ other steps prior to the hearing, ~~as which~~ 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 project promotes~~ the public interest and welfare, and is practicable and in conformity with the overall plan of the district, they shall adopt a ~~final resolution therefor, for the project, and~~ 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 manner~~ provided for the hearing on the resolution. Thereafter the matter may be referred back to the engineer for further study and report or the managers may dismiss the proceeding. ~~If the report of the engineer is favorable~~

When a final resolution is adopted, the matter shall proceed as in the case of a ~~work project~~ 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 project~~ under this subdivision as found by the appraisers and approved by the managers, proceedings shall be commenced pursuant to section 112.60.

Sec. 15. Minnesota Statutes 1980, Section 112.49, Subdivision 1, is amended to read:

Subdivision 1. If it appears to the managers that the petition is sufficient, that the proposed ~~improvement project~~ is ~~for promotes~~ the public interest and welfare, and is practicable and in conformity with the overall plan ~~for projects and improvements~~ of the district, they shall properly identify the proceeding by name and number and shall cause to be made, at the earliest time possible, all necessary surveys and ~~plans maps~~ for the construction of the proposed ~~improvement project~~ as provided in this subdivision. The engineer designated by the managers shall make a report to the managers of his findings and recommendations relative to the proposed ~~improvement project~~. If he finds

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the improvement feasible he shall include in his report a plan of the proposed project including:

(1) A map of the area to be improved, drawn to scale, showing ~~thereon~~ the location of the proposed improvements; the location and adequacy of the outlet; the watershed of the project area; the location of existing highways, bridges and culverts; all lands, highways and utilities affected, together with the names of the owners ~~thereof~~, so far as known; the outlines of any public lands and public bodies of water affected; ~~such and any~~ other physical characteristics of the watershed ~~as may appear~~ necessary for the understanding ~~thereof~~ of the area;

(2) The estimated total cost of the completion of the project including costs of construction and all supervision and administrative costs of the project;

(3) The acreage which will be required and taken as right-of-way listed by each lot and 40 acre tract, or fraction thereof, under separate ownership; and

(4) ~~Such~~ Other details and information to inform the managers of the practicability and necessity of the proposed improvements project together with his the engineer's recommendations ~~thereon on these matters~~.

Sec. 16. Minnesota Statutes 1980, Section 112.49, Subdivision 7, is amended to read:

Subd. 7. The findings, recommendations and content of engineering reports for ~~works projects~~ 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. 17. Minnesota Statutes 1981 Supplement, Section 112.53, Subdivision 1, is amended to read:

Subdivision 1. The managers shall by publication give notice of the pendency of the petition or resolution; the time and place for hearing thereon; and that the engineer's and appraisers' reports, including the plans, have been filed with the managers and are subject to inspection. The notice shall contain a brief description of the proposed ~~improvement project~~, together with a description of the properties benefited or damaged, and the names of the owners thereof of the properties, the public and other corporations affected ~~thereby by the project~~ as shown by the engineer's and appraisers' reports. A map of the affected area may be included in the notice in lieu of the names of the owners or of the descriptions of the properties affected by the project or both. The notice shall require all parties interested in the proposed improvement project to appear before the managers at the time and place designated in the notice and there to present ~~their any~~ objections, if any they may have, and to show cause why an order should not be made by the managers granting the petition and, confirming the reports of the engineer and the appraisers, and ordering the establishment and construction of the improvement project.

Sec. 18. Minnesota Statutes 1980, Section 112.58, is amended to read:

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**112.58 WORK MAY BE DONE WITHOUT A CONTRACT EMERGENCY PROCEDURES.**

In case of If the managers find that conditions exist which present a clear and imminent danger to the health or welfare of the people of the district, and that to delay action would prejudice the interests of the people of the district or would be likely to cause irreparable harm, the managers may declare the existence of an emergency and designate the location, nature and extent of the emergency. When an emergency has been declared, and in order to the extent necessary to protect the interests of the district, the managers may order that work may be done under the direction of the managers and the engineer, without a contract, to the extent necessary to protect the interests of the district. The cost of work undertaken without a contract may be assessed against benefited properties or, if the cost is not more than 25 percent of the latest administrative ad valorem levy of the district and the work is found to be of common benefit to the district, may be raised by an ad valorem tax levy upon all taxable property within the district, or both.

Sec. 19. Minnesota Statutes 1980, Section 112.61, Subdivision 3, is amended to read:

Subd. 3. 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 ~~\$75,000~~ \$125,000, whichever is the lesser. Such funds shall be used for general administrative expenses and for the construction and maintenance of projects of common benefit to the district. The managers may make an annual levy for this fund as provided in section 112.611. In addition to the annual administrative levy ~~and solely in the instance of projects initiated by petition of a municipality of the district,~~ the managers may annually levy a tax of not to exceed one-third of one mill for a period of not to exceed 15 consecutive years; ~~the funds to be used to pay the cost which is attributed attributable to the basic water management features of improvement projects initiated by petition of a municipality of the district.~~

Sec. 20. Minnesota Statutes 1980, Section 112.62, Subdivision 1, is amended to read:

Subdivision 1. ~~As soon as the managers are appointed and have qualified, and When a proper petition and bond have has been filed with the managers praying for the construction of an improvement a project within the district, the managers may file a petition with the district court in the county wherein where the district has its principal place of business of the district is situate asking that an order be made creating a preliminary expense fund be created for the district, and may subsequently amend or supplement the petition if necessary. At least ten days days' notice of such application a petition or amended or supplementary petition shall be given to the auditor of each county affected by the proposed improvement project. The fund applied for shall be of a size proportionate to~~

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meet the needs of the district, for preliminary work on the proposed improvement project.

Sec. 21. Minnesota Statutes 1980, Section 112.64, is amended to read:  
**112.64 LEVY FOR REPAIR OF IMPROVEMENT.**

Subdivision 1. The board of managers shall be responsible for maintaining the ~~works~~ projects of the district in such condition that they will accomplish the purposes for which they were constructed. The cost of normal or routine maintenance of the ~~works~~ projects of the district, and the cost of removing obstructions and accumulations of foreign substances from a drainage system, will ~~shall~~ be paid from the maintenance fund upon the order of the board of managers.

Subd. 2. For the purpose of creating, ~~to the credit of a work of improvement of the district, a maintenance fund to be used for normal and routine maintenance of that work of improvement a project,~~ the board of managers is authorized to apportion and assess the amount of ~~such~~ the fund against all the parcels of land and municipal corporations ~~theretofore~~ previously assessed for benefits in proceedings for the construction of the ~~work of improvement project~~. Such ~~The~~ assessment shall be made pro rata according to benefits determined. No assessment for the benefit of the maintenance fund shall be made ~~at any such time that~~ when the fund exceeds 20 percent of the original cost of construction of the ~~work of improvement project~~. Upon receiving the assessment order from the board of managers, the auditors of the counties affected ~~thereby~~ shall file for record in the office of the county recorder for the county a tabular lien statement covering the assessment. The assessment shall be collected as provided in the order in the same manner as provided in section 106.471. Before ordering the levy of an assessment for the benefit of the maintenance fund, the board of managers, in its discretion, may give ~~such~~ notice of a hearing thereon as it may deem advisable on the matter.

Subd. 3. If the engineer certifies to the board of managers, in his annual report or otherwise, that ~~a work of an~~ improvement of the district is in such a state of disrepair that it cannot be restored by normal and routine maintenance to the same condition as when originally constructed or subsequently improved, or that a ditch or channel must be widened or deepened, or that any ~~work of~~ improvement of the district must be altered or improved, in order to attain the level of operating efficiency contemplated at the time of the original construction, the board of managers, before ordering any repairs other than normal and routine maintenance, shall order the engineer to prepare and submit to the board of managers technical and cost specifications on the work necessary to restore, or improve, the ~~work of~~ improvement to the desired level of operating efficiency. Upon receiving the engineer's report, the board of managers shall set a date for hearing ~~thereon on the report~~ and give notice ~~thereof of the hearing~~ in the same manner as in the original proceeding on the construction of the ~~work of~~.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

improvement. If upon full hearing the board of managers finds that the repair or improvement is in compliance with the provisions, ~~and is necessary to accomplish the purposes of this chapter, and that the cost thereof of the repair or improvement will not exceed the its benefits therefrom,~~ they may order the repair or improvement and assess the cost against the benefited properties ~~to defray the cost thereof.~~ The cost ~~will~~ shall be apportioned and assessed pro rata upon all lands and property as that were assessed for the construction of the work of improvement. No single levy for repair shall exceed the amount of benefits originally determined. The board of managers shall file a copy of the order for levy with the auditor of each county which contains affected properties. The auditor shall extend the levy against affected properties as in proceedings for the levy, assessment and collection of taxes levied in drainage proceedings conducted under chapter 106.

Subd. 4. If the managers find that the estimated cost of ~~such~~ repair, including all fees and costs incurred for proceedings relating ~~thereto to it,~~ is less than ~~\$10,000~~ \$20,000, it may have ~~such~~ the work done by ~~day labor contract~~ without advertising for bids or ~~entering into a contract therefor.~~

Sec. 22. Minnesota Statutes 1980, Section 112.65, Subdivision 2, is amended to read:

Subd. 2. Construction of all new drainage systems or improvements of existing drainage systems within the district shall be initiated by filing a petition with the managers of the district. In all proceedings for the improvement of existing drainage systems within the district, the managers shall conform to the provisions of section ~~106.501~~ 112.49.

Sec. 23. Minnesota Statutes 1980, Section 106.271, is amended to read:

**106.271 CONSTRUCTION AND MAINTENANCE OF BRIDGES;  
AUTHORITY OF DIRECTOR.**

The auditor or clerk shall notify the state and each municipality, railroad company, or other corporation to construct any bridge or culvert required upon its road or right-of-way, within a reasonable time named in the notice.

If the work is not done within ~~the that time limited,~~ the ~~county board or district court ditch authority~~ may order the same built as a part of the construction of the system and the cost ~~thereof~~ shall be deducted from the damages allowed the corporation or collected from it as in case of an assessment for benefits, ~~and in all cases where.~~ If the report of the engineer or viewers shows the necessity for the construction of ~~such the~~ bridge, the ~~board or court ditch authority~~ may order a sufficient amount retained from any sum due ~~such to the municipality, railroad, or other corporation to secure the construction of the bridge or culvert.~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

On public highways, all bridges and culverts required by the construction and improvement of any public open ditch, shall be constructed and maintained by the public authority charged by law with the duty of keeping such the highway in repair, except as ~~hereinafter~~ provided in this section noted.

~~In all cases where~~ If a public road or street, which is not a state trunk highway, is on the line between two public corporations, whether in the same county or not, such the corporations shall bear jointly and in equal shares the cost of constructing any bridge or culvert on such the road or street made necessary by the construction or improvement of any public drainage ditch; and such. The corporations shall bear jointly and in equal shares the cost of ~~thereafter~~ maintaining the same bridge or culvert.

~~In all cases where~~ If a public drainage ditch is constructed along the boundary line between towns or counties, and excavated material ~~therefrom~~ from it is deposited on the boundary line or within two rods ~~thereof~~ of the line, the cost of constructing and maintaining all bridges and culverts constructed across such the ditch along the boundary upon on any town or county roads shall be paid and borne equally by the town or county wherein where the bridge or culvert is located and by the other town or county adjoining the boundary.

Private bridges or culverts, constructed as a part of any ditch system ~~hereafter~~ established by proceedings instituted on or after March 25, 1947, shall be maintained by the county board ditch authority as a part of the ditch. Private bridges or culverts constructed as a part of any ditch system established by proceedings instituted before March 25, 1947, may be maintained, repaired, or rebuilt as a part of the ditch by the county board ditch authority at the option of the board ditch authority and the cost of ~~which~~ may be paid in whole or part by the ditch system.

In proceedings for the repair of a public drainage ditch in which a redetermination of benefits is made as set forth in section 106.465, the drainage authority may direct that any existing bridge or culverts constructed as part of the ditch system which serve as township or city roadways, be repaired or rebuilt as a part of the ditch by the ditch authority, and the cost may be paid in whole or in part by the ditch system.

No bridge or culvert, public or private, shall be constructed or maintained in or across any public drainage ditch with less hydraulic capacity than specified in the engineer's report, except with the written approval of the director. If the engineer's report does not specify the hydraulic capacity, no bridge or culvert, public or private, in or across any public drainage ditch, may be constructed or reconstructed without the approval of the director of the hydraulic capacity of such bridge or culvert.

Sec. 24. Minnesota Statutes 1980, Section 106.471, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



Subdivision 1. **DEFINITION; MAINTENANCE OF BRIDGES.** (a) The term "repair" as used in this section means restoring all or a part of a ditch system or any part thereof as nearly as practicable to the same condition as when originally constructed or subsequently improved, including resloping of open ditches and leveling of waste banks thereon if deemed essential to prevent further deterioration, and such routine operations as may be required from time to time required to remove obstructions and preserve the efficiency of the ditch.

(b) After construction, all highway bridges and culverts on any ditch system ~~hereafter~~ established by proceedings instituted on or after March 25, 1947, shall be maintained by the municipality or public authority charged with the duty of maintaining the same as set forth in section 106.271. Private bridges and culverts, constructed as a part of any ditch system ~~hereafter~~ established by proceedings instituted on or after March 25, 1947, shall ~~thereafter~~ be maintained by the county ditch authority as a part of such the ditch system. Private bridges or culverts constructed as a part of any ditch system established by proceedings instituted before March 25, 1947, may be maintained, repaired, or rebuilt, as a part of the ditch by the ~~county board~~ ditch authority at the option of the ~~board~~ ditch authority and the cost of ~~which~~ may be paid in whole or part by the ditch system.

(c) In proceedings for the repair of a public drainage ditch in which a redetermination of benefits is made as set forth in section 106.465, the drainage authority may direct that any existing bridge or culverts constructed as part of the ditch system which serve as township or city roadways, be repaired or rebuilt as a part of the ditch by the ditch authority, and the cost may be paid in whole or in part by the ditch system.

#### Sec. 25. **EFFECTIVE DATE.**

This act is effective on the day following its final enactment.

Approved March 22, 1982

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### CHAPTER 541 — H.F.No. 776

*An act relating to insurance; requiring private passenger vehicle insurers to disclose surcharge plans; proposing new law coded in Minnesota Statutes, Chapter 65B.*

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

#### Section 1. **[65B.133] SURCHARGE DISCLOSURE.**

Subdivision 1. DEFINITIONS. For the purposes of this section, the terms defined in this section have the meanings given them.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.