

therefor in the county.

If the difference between the votes of the candidates for legislative office which lies within a single county is 100 votes or less the canvassing board shall recount the votes. A recount shall not delay any other part of the report of the board and shall be reported and certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

In case of a tie, the canvassing board shall determine the results by lot. Upon completion of the canvass, the board shall declare the person receiving the highest number of votes for each county office duly elected thereto; and when the county constitutes or contains a senatorial or representative district in the legislature, it shall declare the person receiving the highest number of votes for each office in the legislature duly elected.

Sec. 17. **REPEALER.** Minnesota Statutes 1976, Sections 204A.45, Subdivision 2; and 204A.48 are repealed.

Sec. 18. **EFFECTIVE DATE.** This act is effective the day following final enactment.

Approved April 5, 1978.

CHAPTER 726-S.F.No.793

[Coded in Part]

An act relating to public waters; specifying the procedure for creation of lake improvement districts; authorizing districts to undertake certain improvement projects and assess benefited property; altering the procedure for terminating districts; requiring districts to hold an annual meeting; clarifying local government authority over public waters; amending Minnesota Statutes 1976, Sections 105.484; 378.41, Subdivision 2; 378.42, Subdivisions 1, 2, and by adding a subdivision; 378.43, Subdivisions 1 and 3; 378.46; 378.47, Subdivisions 1 and 2; 378.51, Subdivision 1; 378.52, Subdivision 1; 378.55; 378.56, Subdivisions 1 and 2; and 459.20; and Chapter 378, by adding a section.

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

Section 1. Minnesota Statutes 1976, Section 105.484, is amended to read:

105.484 LAKE IMPROVEMENTS; GRANTS-IN-AID; PRIORITIES. The commissioner of natural resources with the assistance of the pollution control agency and the state planning agency shall make an assessment of the need for particular kinds of lake improvements including improvements related to pollution problems; high or low water levels; and any other resource management considerations, except pollution problems, and to develop by January 1, 1975 April 1, 1979, criteria for allocating state aid funds among proposed projects. ~~Where these relate to control of or studies of sources and~~

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~~effects of wastes per se, any grant funds for such work shall be under the pollution control agency directly or subject to the pollution control agency priority system. Provisions shall be included to insure that any federal program of aid to local lake improvement projects serves to reduce the local share of project costs rather than reducing only the state's share.~~

Sec. 2. Minnesota Statutes 1976, Section 378.41, Subdivision 2, is amended to read:

Subd. 2. The commissioner of natural resources, ~~on or before July 1, 1974~~ April 1, 1979, shall promulgate ~~in the manner provided by rules pursuant to chapter 15; rules and regulations~~ which provide guidelines, criteria and standards for establishment of lake improvement districts by counties and cities.

Sec. 3. Minnesota Statutes 1976, Section 378.42, Subdivision 1, is amended to read:

378.42 CREATION BY COUNTY BOARD. Subdivision 1. The county board may establish a lake improvement district in a portion of the county by adoption of an appropriate resolution. The resolution shall specify the territorial boundaries of the area, which shall be as consistent as possible with natural hydrologic boundaries, the type or types of water and related land resource management programs to be undertaken in the area, a statement of the means by which the programs will be financed, and a designation of the county officer or agency who will be responsible for supervising the programs. ~~Nothing in Laws 1973, Chapter 702 shall be construed to prohibit any county from establishing a lake improvement district after May 25, 1973, provided that after July 1, 1974, any established lake improvement district shall be consistent with the rules and regulations promulgated under section 378.41.~~

Sec. 4. Minnesota Statutes 1976, Section 378.42, Subdivision 2, is amended to read:

Subd. 2. Before the adoption of such a resolution, the county board shall hold a public hearing on the question of whether or not a lake improvement district shall be established. Before the date set for the hearing, any interested person may file his objections to the formation of such district with the county auditor. At the hearing, any interested person may offer objections, criticisms or suggestions as to the necessity of the proposed district as outlined and to the question of whether his property will be benefited by the establishment of the district.

Sec. 5. Minnesota Statutes 1976, Section 378.42, is amended by adding a subdivision to read:

Subd. 3. Following the hearing, if it appears to the board, after consideration of all testimony, that the proposed district is necessary or that the public welfare will be promoted by the establishment of the district, that the property to be included in the district will be benefited by the establishment thereof, and that the formation of the proposed district will not cause or contribute to long range environmental pollution, the county board, by formal order, shall declare its findings, shall establish the boundaries and shall declare the district organized and give it a corporate name by which it shall be known.

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Sec. 6. Minnesota Statutes 1976, Section 378.43, Subdivision 1, is amended to read:

378.43 **PETITION FOR CREATION.** Subdivision 1. A petition signed by five percent of the qualified voters within any portion of 51 percent of the resident owners as defined in section 112.35, subdivision 21, within the proposed lake improvement district as specified in the petition may shall be submitted to the county board filed with the county clerk and addressed to the board requesting the establishment of a lake improvement district to develop and provide a program of water and related land resources management. The petition shall specify the territorial boundaries of the area; which shall be consistent with natural hydrologic boundaries; the type or types of water and related land resource management programs to be undertaken in the area; a statement of the means by which the programs will be financed; and a designation of the county officer or agency who will be responsible for supervising the programs. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

The petition shall set forth the following:

(1) The name of the proposed district;

(2) The necessity for the proposed district so that the public health or public welfare will be promoted by the establishment of the district and that the lands to be included therein will be benefited by the establishment or accomplish any of the purposes of a lake improvement district;

(3) The boundaries of the territory, which shall be as consistent as possible with natural hydrologic boundaries, to be included in the proposed district;

(4) A map of the proposed district;

(5) The number of managers proposed for the district. The managers shall not be less than three nor more than five and be selected from a list of ten nominees; and

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

Sec. 7. Minnesota Statutes 1976, Section 378.43, Subdivision 3, is amended to read:

Subd. 3. Within 30 days following the holding of a public hearing the county board by resolution shall approve or disapprove the establishment of the requested lake improvement district and give it a corporate name by which it shall be known. A resolution approving the creation of the lake improvement district may contain modifications of the area's boundaries, functions, financing, or organization from what was set forth in the petition.

Sec. 8. Minnesota Statutes 1976, Section 378.46, is amended to read:

378.46 **PUBLICATION AND EFFECTIVE DATE.** Upon passage of a county board resolution ~~or commissioner's order~~ authorizing the creation of a lake improvement **Changes or additions indicated by underline deletions by strikeout**

district, the county board or boards shall cause the resolution ~~of order~~ to be published once in the official newspapers and filed with the secretary of state, the pollution control agency and the commissioner of natural resources. The lake improvement district shall be deemed established 30 days after publication or at such later date as may be specified in the resolution ~~of order~~.

Sec. 9. Minnesota Statutes 1976, Section 378.47, Subdivision 1, is amended to read:

378.47 REFERENDUM. Subdivision 1. Upon receipt of a petition signed by five twenty-five percent of the qualified voters resident owners within the territory of the lake improvement district specified in the resolution adopted pursuant to section 378.42 prior to the effective date of its creation as specified in section 378.46, the county board or boards shall hold the creation in abeyance pending referendum vote of all qualified ~~electors~~ voters and resident owners residing within the boundaries of the proposed lake improvement district.

Sec. 10. Minnesota Statutes 1976, Section 378.47, Subdivision 2, is amended to read:

Subd. 2. The county board or boards shall make arrangements for the holding of a special election not less than 30 nor more than 90 days after receipt of such petition within the boundaries of the proposed lake improvement district specified in the resolution adopted pursuant to section 378.42. If a general election will be held within the time specified, the vote on creation may be held as part of the general election. The county auditor shall administer the election. The question to be submitted and voted upon by the qualified voters and resident owners within the territory of the proposed lake improvement district shall be phrased substantially as follows:

“Shall a lake improvement district be established in order to provide (water and related land resources improvements) financed by (revenue sources)?”

Upon certification of the vote by the county auditor, if a majority of those voting on the question favor creation of the proposed lake improvement district the lake improvement district shall be deemed created.

Sec. 11. Minnesota Statutes 1976, Section 378.51, Subdivision 1, is amended to read:

378.51 BOARD OF DIRECTORS. Subdivision 1. After creation of a lake improvement district, the county board or boards ~~may~~ shall appoint persons to serve as a board of directors for the lake improvement district. The number, qualifications, terms of office, removal, and filling of vacancies of directors shall be as provided in the resolution creating the board of directors. The initial board of directors shall include persons owning property within the district, at least one of whom is a resident of the district.

Sec. 12. Minnesota Statutes 1976, Section 378.52, Subdivision 1, is amended to read:

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378.52 **FINANCING.** Subdivision 1. The county board or boards in order to accomplish the purposes specified in the resolution ~~or order~~ creating a lake improvement district may undertake projects of improvement consistent with these purposes and assess the costs of the projects upon benefited property within the district in the manner provided in chapter 429, may impose service charges on the users of ~~such lake~~ lake improvement district services within the area, and may levy an ad valorem tax solely on property situated within the lake improvement district, to be appropriated and expended solely on projects of special benefit to the area, or any combination of service charges, special assessments, and taxes.

Sec. 13. Minnesota Statutes 1976, Section 378.55, is amended to read:

378.55 **EXPANSION OF THE BOUNDARIES OF A LAKE IMPROVEMENT DISTRICT.** A county board, on its own motion or pursuant to petition, may enlarge any existing lake improvement district pursuant to the procedures specified in sections 378.41 to ~~378.47~~ 378.46. ~~In the event a referendum is required, only qualified voters residing in the area to be added shall be eligible to participate in the election; provided that if five percent of the qualified voters residing in the existing lake improvement district petition to participate therein, all qualified voters residing in the proposed lake improvement district shall be eligible.~~

Sec. 14. Minnesota Statutes 1976, Section 378.56, Subdivision 1, is amended to read:

378.56 **TERMINATION.** Subdivision 1. Upon receipt of a petition signed by ~~ten~~ 51 percent of the qualified voters resident owners within the territory of the lake improvement district requesting the termination of the lake improvement district, ~~or pursuant to its own resolution,~~ the county board or boards shall make arrangements for the holding of a special election within the lake improvement district not less than within 30 nor more than 90 days after receipt of such a petition, by its order fix a time and place, for a hearing thereon. ~~If a general election will be held within the time specified, the vote on termination may be held as part of the general election. The county auditor shall administer the election. The question to be submitted and voted upon by the qualified voters within the lake improvement district shall be phrased substantially as follows:~~

~~"Shall the lake improvement district heretofore established be terminated and the undertaking of additional water and related land resource improvements of the county as provided for within such lake improvement district be discontinued?"~~

If the board or boards determine that the existence of the district is no longer in the public welfare or public interest and it is not needed to accomplish the purpose of sections 378.31 to 378.56 and section 16 of this act the board or boards shall by its findings and order terminate the district. Upon filing a certified copy of the findings and order with the secretary of state, pollution control agency and commissioner of natural resources the district shall cease to be a political subdivision of the state.

Sec. 15. Minnesota Statutes 1976, Section 378.56, Subdivision 2, is amended to read:

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Subd. 2. Upon certification of the vote by the county auditor, if a majority of those voting on the question favor the termination the lake improvement district shall be terminated. If a lake improvement district is terminated pursuant to subdivision 1, no additional water and related land resource management programs shall be undertaken with money raised by a special tax within the district, and no additional special water and related land resource management taxes shall be levied within the district. When money raised by past special tax levies within the district has been exhausted, further operation and maintenance of existing programs may be financed by appropriations from the general revenue fund of the county.

Sec. 16. Minnesota Statutes 1976, Chapter 378, is amended by adding a section to read:

[378.57] ANNUAL MEETING OF DISTRICT. Every lake improvement district shall have an annual meeting. The first annual meeting shall be scheduled during the months of July or August, and shall be held annually thereafter unless changed by vote of the previous annual meeting.

(1) The annual meeting shall be preceded by written notice mailed at least ten days in advance of the meeting to all resident owners within the district and to the pollution control agency and commissioner of natural resources.

(2) The annual meeting shall:

(a) Elect one or more directors to fill vacancies in the district board.

(b) Approve a budget for the coming year.

(c) Approve or disapprove all proposed projects by the district having a cost to the district in excess of \$5,000, by vote of the resident owners within the district.

(d) Take up and consider such other business as comes before it.

Sec. 17. Minnesota Statutes 1976, Section 459.20, is amended to read:

459.20 AUTHORITY OVER PUBLIC WATERS. The governing body of any home rule charter or statutory city or town in the state has the following powers: (a) In, with respect to any body of water situated wholly within the municipal its boundaries, all the powers to improve and regulate the use of such body of water as are conferred on county boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts under sections 378.41 to 378.56; and (b) In and section 16 of this act. With respect to any body of water situated partly wholly within the municipal contiguous boundaries; the powers conferred on county boards by section 378.31; but only to the extent such powers are necessary for the purpose of preventing or controlling floods within the boundaries of the municipality and only in conjunction with projects undertaken pursuant to or in anticipation of an agreement with the government of the United States or any agency thereof of two or more home rule charter or statutory cities or towns or any combination thereof, the city councils and town boards may, under the

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provisions of section 471.59, jointly exercise such powers to improve and regulate the use of the body of water as are conferred on county boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts as provided under sections 378.41 to 378.56 and section 16 of this act, provided that, no home rule charter or statutory city or town may establish and administer a lake improvement district or exercise any of the powers granted in this section if a lake improvement district covering the same territory has been created by a county board under sections 378.41 to 378.56 and section 16 of this act. References in sections 378.31 to 378.35 and 378.41 to 378.56 and section 16 of this act to the county board shall mean also be construed to refer to the appropriate governing body of a home rule charter or statutory city or the board of supervisors of a town.

Sec. 18. This act is effective the day following final enactment.

Approved April 5, 1978.

CHAPTER 727-S.F.No.804

[Coded in Part]

An act relating to the operation of motor vehicles; defining the offense of driving while intoxicated; providing procedures for the testing of drivers who are under the influence of alcohol or controlled substances; providing procedures for the limitation, suspension, revocation and reinstatement of driving privileges; providing for alcohol problem assessments; providing penalties; amending Minnesota Statutes 1976, Sections 169.01, by adding a subdivision; 169.121; 169.123, as amended by Laws 1977, Chapter 82, Section 2; 169.124; 169.125; 169.126; 171.30, Subdivision 1; and Chapter 169, by adding sections; repealing Minnesota Statutes 1976, Sections 169.127; and 171.245.

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

Section 1. Minnesota Statutes 1976, Section 169.01, is amended by adding a subdivision to read:

Subd. 61. ALCOHOL CONCENTRATION. "Alcohol concentration" means

(a) the number of grams of alcohol per 100 milliliters of blood, or

(b) the number of grams of alcohol per 210 liters of breath, or

(c) the number of grams of alcohol per 67 milliliters of urine.

Sec. 2. Minnesota Statutes 1976, Section 169.121, is amended to read:

169.121 MOTOR VEHICLE DRIVERS UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE. Subdivision 1. It shall be is a misdemeanor for any person described in clauses (a); (b); (c) or (d) to drive, operate or be in actual physical

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