

CHAPTER 82—S. F. No. 432

An act relating to and defining repair of public drainage systems, assessment of benefits determined and collection thereof, and repealing Minnesota Statutes 1941, Sections 106.48 and 106.49.

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

Section 1. Repair of ditches. The term "repair" used in this chapter means restoring 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 from time to time required to remove obstructions and preserve the efficiency of the ditch.

Sec. 2. Maintenance; inspection. Subdivision 1. After the construction of a state, county or judicial drainage system has been completed, the county board is empowered to maintain the same or such part thereof as lies within the county and provide the repairs required to render it efficient to answer its purpose. The board shall cause such drainage system to be annually inspected, either by a committee thereof, or a ditch inspector appointed by the board, and, if the committee or inspector shall report to the board that repairs are necessary on any ditch system and such report is approved by the board, it shall cause such repairs to be made in accordance with the provisions of Minnesota Statutes 1941, Chapter 106, as amended.

If the board finds that the estimated cost of such repairs will be less than \$500, it may have such work done by force account without advertising for bids or entering into a contract therefor. The county board is limited in the expenditure of money therefor as herein provided. In one calendar year the board shall not spend or contract to be spent for repairs or maintenance on one ditch system a sum greater than ten percent of the cost of construction thereof in that county, except as provided in Subdivisions 2 and 3 of this section. In case there are sufficient funds to the credit of the drainage system to make such repairs, such funds may be expended by the county board for such purpose without further assessment.

Subd. 2. Upon the filing of a petition by any party or corporation, municipal or otherwise, interested in or affected by a drainage system, with the auditor of any county in the case of a drainage system lying wholly within the county, or

with the clerk of the district court of any county affected in the case of a drainage system affecting two or more counties, therein setting forth that the drainage system is out of repair, it shall be the duty of the county auditor in the case of a drainage system lying wholly within the county to present the same to the county board at its next meeting, and the clerk of the district court in the case of a drainage system affecting two or more counties to present the same to the judge of the court within ten days from the filing thereof. Thereupon, if it appears to the board or court that such ditch is out of repair and that the repair thereof is necessary if said ditch is to accomplish its purpose, the board or court shall appoint an engineer, who may be the county highway engineer, to examine the ditch and make report of the necessary repairs, with the estimated cost thereof, and all details, plans, and specifications required to supply the necessary details to let a contract therefor. The board or court may order a hearing on the petition before appointing the engineer on such notice as it may require, if hearing appears necessary, for the purpose of determining the facts as to the necessity of repair.

Subd. 3. Upon the filing of the engineer's report, notice of hearing thereon shall be given as required by Minnesota Statutes 1941, Section 106.07. If at this hearing it shall appear from the engineer's report and the evidence presented that the repairs recommended are necessary, and the board or court shall so find, the board or court shall make findings and order accordingly. In the case of a drainage system lying wholly within the county, the order shall direct the county auditor and the chairman of the county board, and in the case of a drainage system affecting two or more counties the order shall direct the auditors of the several counties affected to proceed and let a contract for the repair of the system as shown in the engineer's report and as determined necessary by the board or court, in the manner provided in Minnesota Statutes 1941, Section 106.30.

Sec. 3. **Payment.** Subdivision 1. In case there are not sufficient funds to the credit of the drainage system so to be repaired, the county board may pay for the same out of the general revenue fund of the county. To raise the necessary money to reimburse the general revenue fund, the county board is hereby authorized to apportion and assess the cost of the repairs pro rata upon all lands, corporations and municipalities which have participated in the total benefits as theretofore determined. Such assessments may be made payable in annual installments to be specified in the order for assessment. If the assessments do not exceed 50 per cent of the original cost of the ditch, such installments shall not exceed

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

Subd. 2. Following the levying of any assessment to be made by authority of this section and before the 1st day of January next following, the county auditor shall enter the amounts of any assessments or installment thereof to become due in the following calendar year upon the tax lists against the lands assessed by the county board located within the county in accordance with the action of the county board and the same shall be collected in the same manner as real estate taxes. When any such assessment is levied, the county auditor shall file for record in the office of the register of deeds an additional tabular statement in substance as provided in Minnesota Statutes 1941, Section 106.41.

Sec. 4. Repair fund. For the purpose of creating a fund to the credit of any drainage system to be used for repairs exclusively, the county board is authorized to apportion and assess the amount of such fund to be created against all the parcels of land, corporations and municipalities theretofore assessed for benefits in proceedings for the construction of the ditch system including lands benefited although not originally assessed therefor but have been made subject to assessment according to law. Such assessment shall be made pro rata in proportion to benefits determined. The fund so created shall not exceed ten per cent of the original cost of construction of the ditch system. Whenever such fund to the credit of one ditch system shall exceed ten per cent of the total original assessments of benefits, no further assessment for the purpose of creating such fund shall be made until such fund shall have fallen below that percentage. Assessments shall be collected as provided in Section 3.

Such assessment, if so provided in the order, may be made payable in equal annual installments. Thereupon the county auditor shall file for record in the office of the register of deeds a tabular statement in substance as provided in Minnesota Statutes 1941, Section 106.41.

Sec. 5. Engineer's maps, report; hearing; appeal. Subdivision 1. In any proceeding for the repair of any state, county, or judicial drainage system, if it shall appear that any

lands which were not assessed for benefits arising from its construction have been drained into such drainage system, or have otherwise benefited by reason thereof, the engineer appointed under Section 2 hereof shall submit a map with his report showing all ditches and main drains, public or private, draining into such drainage system and all lands affected thereby or otherwise benefited by such drainage system, together with the names of the owners thereof so far as practicable. In such event, all such owners shall be notified of the hearing on the engineer's report as provided by Section 2 hereof.

Subd. 2. Upon the hearing on the engineer's report, if it shall appear that lands which were not assessed for benefits resulting from the construction of the ditch system have been benefited by reason thereof, the board or court shall so find and, before ordering the letting of a contract for the making of such repairs, shall appoint viewers as provided by Minnesota Statutes 1941, Section 106.16. The viewers shall proceed to ascertain and determine the benefits to all lands, roads, corporations, and municipalities benefited by the original construction of such ditch system and not assessed for benefits arising from its construction and shall report the same to the board or court, as the case may be, as provided by Minnesota Statutes 1941, Section 106.17. Upon the filing of such report, notice of hearing thereon shall be given as required by Minnesota Statutes 1941, Section 106.24, and the board or court shall thereupon have jurisdiction of each tract of land and property in said viewers' report described, as set forth in Minnesota Statutes 1941, Section 106.25.

Subd. 3. Upon hearing upon said viewers' report, the board or court shall hear all interested parties and shall find and determine the benefits to all lands, roads, corporations and municipalities benefited by the original construction of the ditch system and not assessed for benefits therefor.

Subd. 4. Any person aggrieved by the assessment as determined by the board or court may appeal from the order determining the same as provided by Minnesota Statutes 1941, Sections 106.89 and 106.90.

Subd. 5. In the repair of the drainage system then determined and in all future proceedings relating to the repair, cleaning, improvement, or alteration of such drainage system such lands shall be considered a part of the lands benefited by the drainage system described in such order and shall be assessed in the same manner as provided by law for the assessment of the lands and properties originally assessed for and included in the drainage system.

Sec. 6. Costs and assessments. All fees and costs incurred for proceedings relating to the repair of any drainage system, including inspections, engineering, viewing, publications, or any other proper proceeding shall be deemed a cost of repair and assessed against the land benefited and against corporations and municipalities as herein provided.

Sec. 7. Repeal. Minnesota Statutes 1941, Sections 106.48 and 106.49 are repealed but the repeal thereof shall not affect any proceedings commenced thereunder prior to the effective date of this act.

Approved March 9, 1945.

CHAPTER 83—S. F. No. 434

An act relating to aid to dependent children and to amend Minnesota Statutes 1941, Section 256.79.

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

Section 1. Minnesota Statutes 1941, Section 256.79, is hereby amended so as to read as follows :

“256.79. **Removal to another county.** Any child qualified for and receiving assistance pursuant to the provisions in sections 256.72 to 256.87 in any county in this state, who moves or is taken to another county in this state shall be entitled to continue to receive assistance from the county from which he has moved or has been taken until he shall have resided for one year in the county to which he has moved. When he has resided one year in the county to which he has moved, or has been taken, the county agency of the county from which he has moved shall transfer all necessary records relating to the child to the county agency of the county to which he has moved.”

Approved March 9, 1945.

CHAPTER 84—S. F. No. 435

An act relating to infants' homes and day care facilities and amending Minnesota Statutes 1941, Section 257.10 as amended by Chapter 486, Laws of Minnesota 1943.