

CHAPTER 337.

[S. F. No. 477.]

AN ACT TO ENABLE THE OWNERS OF LAND TO LAY OUT AND CONSTRUCT PUBLIC ROADS, AND PRESCRIBING THE POWERS AND DUTIES OF THE COUNTY COMMISSIONERS AND OTHER OFFICERS IN THE PREMISES, AND WHERE A ROAD IS CONSTRUCTED UNDER THIS ACT PROVIDING FOR THE DRAINAGE OF THE SAME AND KEEPING IT IN REPAIR, RELATING ONLY TO THE COUNTY OF ANOKA, MINNESOTA.

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

SECTION 1. That the board of county commissioners of the county of Anoka shall have the power, at any session, when they shall deem the same of public benefit or utility, to cause to be constructed, as hereinafter provided, any road within said county.

SEC. 2. That before the board of county commissioners shall establish any road there shall be filed with the auditor of said county a petition, signed by the owner or owners of more than half of the land which would be liable to be assessed for the expense of the construction of the same, giving a general description of the proposed starting point, route and terminus of said road, and one (1) or more of such petitioners shall give a bond, with good and sufficient freehold sureties, payable to the county, to be approved by the auditor, conditioned to pay all expenses in case the board of commissioners shall fail to establish said proposed road. It shall be the duty of the board of commissioners at their first general or special meeting held after such petition shall have been filed with the auditor, to appoint one (1) of their number, together with two (2) resident freeholders of said county not interested in the construction of the proposed road and not of kin to any parties interested therein, as viewers, and also a competent civil engineer to survey said proposed line of road as herein provided.

SEC. 3. The auditor shall thereupon issue to said viewers a certified copy of said petition and the order appointing them as viewers, and they shall proceed, with the engineer appointed as provided in the preceding section, to make a complete survey of the line of the proposed road, and any ditch or ditches or drains they may deem necessary to the complete drainage of the roadbed of said road, which said ditch or ditches or drains may run along or away from said road, to connect with any other ditch or ditches or drains already constructed or into any watercourse. And they shall set stakes or monuments at each one hundred (100) feet on the line of such road and said ditch or ditches and make an estimate of the number of cubic yards to be excavated from said road and ditch or ditches and the number of cubic yards to be placed on the said road, and in each case the estimated cost thereof. They shall also specify the width on the top and at the bottom of the embankment or excavation and the depth of cut or fill, as the case may be, at each one hundred (100) foot stake along the line of such road or said ditch or ditches, and they shall re

port all lands actually damaged by such road and ditch or ditches, and exact amount of damages to each tract, giving a description thereof, and the names of the owners in so far as they can; and also, a description of all lands benefited by said road or ditch or ditches lying within one (1) mile of the centre of said road, and the exact amount that each of said tracts of land will be benefited; and they shall make an estimate of the entire cost of the construction of such road and ditch or ditches as herein provided, and of the damage caused thereby as by them estimated, and make a full report, within thirty (30) days after the appointment of said viewers, of such cost and damages and furnish an itemized account of their expenses, and file the same, with any recommendation they may deem pertinent, with the county auditor, at least thirty (30) days before the next regular or special session of said board of commissioners.

SEC. 4. Such road shall be at least four (4) rods wide, and the central portion thereof shall, when necessary to make a good road, be turnpiked and drained in such manner as the viewers and engineers may determine and recommend.

SEC. 5. Such road may run across or over any other road already constructed, or upon same for any distance, when necessary.

SEC. 6. When the auditor receives such report he shall set a time for hearing said petition and report, which shall be at the next regular or special session of said board of commissioners, held not less than thirty (30) days after the filing of said report; and it shall be the duty of the auditor to cause a notice to be given, by publication for three (3) successive weeks in a newspaper printed and published in said county and by posting printed copies thereof in three (3) public places in each township where the proposed road is located and one (1) at the front door of the court house in said county, of the hearing of said petition and report, and of the time set for the hearing thereof, which notice shall briefly state where such road commenced, its route and terminus, together with the names of the owners of lands lying within one (1) mile from the centre of such proposed road on either side thereof, and the names of owners of land benefited by any ditch or drain which said viewers and engineer report necessary to make (said names of owners in both cases to be the same as appears in the county tax duplicate of said county) and a description of the land damaged by said road or ditches, as appears in the viewers' report; *Provided, however,* that when the owner or owners of seven-eighths ($\frac{7}{8}$) or more of the lands which would be assessed for the construction of a road, petition the county commissioners, giving a general description of the proposed starting point, route and terminus of said road, and setting forth in the petition that they are willing to have their land assessed for the entire expense of constructing said road and necessary ditches, and shall file a bond, as provided in section two (2) of this act; whereupon the county commissioners shall, at their first (1st) session thereafter, appoint one (1) of their number, together with a competent civil engineer, to survey said proposed road, ditch or ditches in accordance with the provisions of section three (3) of this act, except that they shall make their report forthwith to the county commissioners, assessing all benefits to the land owned by petitioners, and they shall be deemed to be the only lands liable to taxation under the provisions of section fourteen (14) of this act. After hearing said report the county commissioners may estab-

lish said road, ditch or ditches, and may, in their discretion, either advertise and let the work as provided in section ten (10) of this act, or let the same to the petitioner or petitioners for said road, to be constructed at such reasonable price as the said commissioners shall determine.

The provisions of sections four (4), five (5) nine (9), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18) and nineteen (19) of this act shall apply to any road or ditch constructed as provided in this section.

SEC. 7. If upon said hearing the board of commissioners find such proposed road will be a public benefit or convenience and practicable, they may, in their discretion, establish the same as specified in said viewers' report, and said commissioners may at said hearing modify the report of the viewers as to benefit assessed or damages allowed, increasing or diminishing the same, or review any other matter connected therewith and call witnesses or view the premises at their option.

SEC. 8. Any person or corporation aggrieved may appeal from any final order or judgment of the board of commissioners made in the proceedings and entered upon their record determining either of the following matters, viz.:

First—The amount of damages allowed to any person or corporation.

Second—Whether where ditches are constructed the estimated benefit to each tract of land is greater than the actual benefits to be derived therefrom.

Said appeal shall be taken and prosecuted in the manner provided for appeals under the general drainage law of eighteen hundred and eighty-seven (1887), being Chapter ninety-seven (97) of the Laws of eighteen hundred and eighty-seven (1887), so far as the same may be applicable.

SEC. 9. When damages are awarded to any person or persons or corporation, as provided by this act, the board of commissioners shall order the same to be paid out of the county treasury, on warrants to be issued to the person or persons or the corporations entitled thereto, and to be dated and become due and payable immediately after the letting of the contracts by the auditor, as hereinafter provided. And in case the proceeding had in relation to the laying out or establishing such road shall be declared void and such proceedings set aside and vacated by the judgment of any court prior to the letting of the contract by said auditor, all such warrants shall thereupon become null and void and shall be returned to the auditor for cancellation.

SEC. 10. When said road is established and damages settled, the auditor shall at once advertise for bids for constructing said road, and any ditch or ditches or drains which may be necessary to drain said road (which said ditch or ditches or drains may run along or away from said road to connect with any other ditch or ditches already constructed, or into any watercourse), in sections of one-half (½) mile or less, as the commissioners may order, in some newspaper printed and published in said county, for three (3) consecutive weeks; and shall, within thirty (30) days from the time said road is finally established, let said work to the lowest bidder who can furnish good and sufficient bond, in double the amount of his bid, which bond shall be conditioned to pay all damages sustained if said work is not done as

specified or within the time specified, which time shall be as short as practicable to insure good work, and shall be determined by the commissioners in their order establishing said road, and shall contract in the name of the county, and said bond shall be given to said county.

SEC. 11. It shall be the duty of the county surveyor and one (1) member of the board of county commissioners, to be designated by said board on being notified by contractor that his contract is completed, to thoroughly inspect the work done under said contract; and if they find it completed according to contract and the specifications therefor, they shall accept it and give to the contractor a certificate of acceptance briefly describing said road, so said contract can be identified; and upon presentation and surrender of such certificate by said contractor to the auditor, the said auditor shall draw an order on the county treasurer of said county for the full amount of the contract price for said work; and all such orders so drawn shall be paid out of the fund to be provided therefor by the said board of commissioners as hereinafter specified, and said order shall become due and payable out of said fund at once; and if there shall be no cash in said fund to pay for said orders when the same are presented, the county treasurer shall indorse on said orders "Not paid for want of funds," and date and sign such indorsement, and the amount of said order shall draw interest at the rate of six (6) per cent per annum until called in by said treasurer.

SEC. 12. The surveyor or engineer shall receive the sum of four (4) dollars per day for every day he is necessarily engaged in performing the duties required of him by this act; the viewers shall receive three (3) dollars per day for each and every day they are necessarily engaged in performing the duties required of them, and they shall hire such help as is necessary in performing their duties, at reasonable prices; the county auditor of Anoka county shall receive compensation for his services under this act, as the board of county commissioners shall determine, and such compensation shall be in addition to all sums allowed by law at the time of the passage of this act.

The fees and compensation provided for in this act shall be audited, examined, allowed and paid upon the order of the board of county commissioners.

SEC. 13. The board of county commissioners are hereby authorized to issue bonds of said county in such sums only as may be necessary to defray the expense incurred in locating, establishing and constructing any road and ditch under this act, said word "expenses" to be construed to mean and cover every item of cost of such road and ditch or ditches from its inception to its completion, and said county to be reimbursed as hereinafter provided. Said bonds may be issued as soon as said expenses can be ascertained, and shall bear interest at a rate not exceeding six (6) per cent, and shall be payable on or before ten (10) years, at the option of said board of commissioners. The said board shall have the power to sell said bonds as they shall deem best for the interest of said county; *Provided*, that they shall not sell the same at less than par value. As soon as said bonds are sold they shall order the treasurer to pay all outstanding orders issued in pursuance of this act out of the funds received from the sale of said bonds, and said commissioners are hereby authorized and empowered to transfer from such fund to the general fund of said county all money paid out by said treasurer for damages awarded under this

act and all other sums allowed by this act in locating and establishing such road, ditch or ditches, if any; and said commissioners are also empowered to transfer from said general fund any surplus money that may be in such general fund, sufficient to pay said damages and expenses of locating and establishing such road and ditch or ditches, if any.

SEC. 14. At the next assessment of taxes after any bonds are issued in pursuance of this act, the county commissioners shall, for the purpose of paying said bonds, levy a tax on all lands lying within one (1) mile from the centre of said road, except what is actually damaged by such road, and all lands benefited by any ditch or ditches made under this law in proportion to the benefits assessed by said viewers, equal to one-tenth ($\frac{1}{10}$) the amount of said bonds and one (1) year's interest thereon, which tax shall be collected as other county taxes are collected; and each succeeding year a tax equal to one-tenth ($\frac{1}{10}$) of the amount of said bonds and one (1) year's interest shall be levied and collected in like manner, until said bonds and the interest thereon are fully paid.

SEC. 15. No error or omission in proceedings under this act not affecting substantial justice shall affect the validity thereof.

SEC. 16. No defect in this act, and no error or omission in any proceedings had thereunder, shall in any way affect the validity of any tax that may be assessed or levied in accordance with the provisions of this act.

SEC. 17. When any road is constructed under this act it shall be kept in repair as any township or county road is kept in repair.

SEC. 18. This act shall apply to Anoka county only.

SEC. 19. This act shall take effect and be in force from and after its passage.

Approved April 20, 1891.

CHAPTER 338.

[S. F. No. 424.]

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF BECKER COUNTY TO ISSUE BONDS TO FUND ITS FLOATING DEBT.

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

SECTION 1. That the board of county commissioners of Becker county be and is hereby authorized to issue and negotiate, at not less than their par value, coupon bonds, in an amount not exceeding sixteen thousand (\$16,000) dollars, to fund the floating indebtedness of the county. Said bonds shall be signed by the chairman of said county commissioners and attested by the auditor of said county and sealed with his official seal. They shall be of the denomination of one thousand (\$1,000) dollars each, and shall be payable, twenty (20) years after their date of issue, at the office of the county treasurer of said county, and shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually.