

CHAPTER 296—S. F. No. 677

An act relating to Naval affairs; to amend Section 2520, General Statutes 1923, to provide for the establishment of a squadron of the air service in the Naval Militia of the State of Minnesota.

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

Section 1. **Naval Militia not to exceed eight companies.**—That Section 2520, General Statutes 1923, be and the same is hereby amended so as to read as follows :

“2520. The Naval Militia shall consist of not to exceed eight divisions or companies *and a squadron of air service, organized into such number of battalions as the tactical situation may require.*”

· Approved April 23, 1929.

CHAPTER 297—S. F. No. 770

An act relating to the filling of vacancies in certain elective public offices.

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

Section 1. **Election to fill vacancies in congress.**—Every vacancy in the office of representative in Congress or member of the State Legislature or in any other elective public office the filling of which is not otherwise provided for shall be filled for the unexpired term by election upon the writ of the governor as provided by this act ; provided, that if there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the expiration of the term in which the vacancy exists or will occur, it shall not be necessary to fill the vacancy.

Sec. 2. **Governor to direct election—special election.**—In any case where a vacancy in such an office has occurred and the governor is informed thereof a sufficient time before the next general election to permit the giving of notice and the nomination of candidates therefor as hereinafter provided, and where there will be

no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the time fixed by law for the final canvass of the general election returns for offices of the same kind as that to be filled hereunder, the governor shall issue his writ directing that the vacancy be filled at such general election and that nominations be made therefor as hereinafter provided. In all other cases the governor, upon being informed of the existence of such a vacancy or of any contingency which will create a future vacancy in such an office, shall issue his writ directing that a special election be held to fill the vacancy and that nominations be made therefor as hereinafter provided. Two or more vacancies may be filled at the same election, and candidates therefore may be nominated at the same primary. Any special election or special primary under this act may be held on the same day as any other election or primary, using the same polling places and election officials, but with separate ballots and ballot boxes for the election or primary held hereunder except as otherwise hereinafter provided.

Sec. 3. Governor to call special election within ten days in certain cases.—In any case where the congress or the legislature will be in session or there will be other occasion for the exercise of the functions of the office, as the case may be, so that a person elected as provided by this section could take office and exercise the functions thereof immediately after his election, the governor, forthwith after being informed of the existence of the vacancy or contingency causing a future vacancy, and in any event not more than ten days after receipt of such information, shall issue his writ calling the special election for the earliest possible time thereafter which will permit the giving of notice of such special election and the primary therefor as hereinafter provided, and in any event not more than twenty-five days after the issuance of the writ.

Sec. 4. Special election.—In all cases other than those hereinafter provided for, the governor shall issue his writ seasonably calling such special election for such time that the person elected may take office at the opening of the next session of the congress or the legislature or upon such other occasion as may next arise for the exercise of the functions of the office, as the case may be, and so that candidates may be nominated for such special election as hereinafter provided.

Sec. 5. Primary election—special primary election.—Candidates for election to fill any such vacancy may be nominated at primaries and otherwise as hereinafter provided. In any case where the vacancy is to be filled at the next general election or

at a special election to be held not less than seven days after the time fixed by law for the meeting of the county canvassing board for the regular primary election, and where the governor's writ can be issued a sufficient time before the regular primary election to permit the giving of notice and the filing of affidavits of candidates as hereinafter provided, the writ shall be so issued and shall direct that candidates may be nominated at the regular primary election, and thereupon candidates shall be so nominated. In all other cases the writ shall direct that a special primary for the nomination of candidates be held on a date therein specified not later than the seventh day before the election at which the vacancy is to be filled, and thereupon such a special primary shall be held as so directed. In the case of non-partisan offices, the two candidates receiving the highest number of votes at the primary election for each office to be filled shall be deemed to be nominated; provided, that where there are two or more offices of the same kind and having the same term to be filled at the same election, the candidates twice as many in number as such offices to be filled receiving the highest number of votes shall be deemed to be nominated. In the case of party offices, one candidate for each office to be filled may be nominated at the primary for each political party having the qualifications prescribed by the laws relating to primary elections, and the candidate of each party receiving the highest number of votes at the primary for such party nomination shall be deemed to be nominated; provided, that where there are two or more party offices of the same kind and having the same term to be filled at the same election, the candidates of each party equal in number to the offices to be filled receiving the highest number of votes for such party nominations shall be deemed to be nominated. Provided, further, that in any case where the number of persons who have filed as candidates for any nomination does not exceed the number to be nominated, the persons who have filed therefor shall be deemed to be nominated, and no primary shall be held to make such nominations. Candidates may also be nominated by petition or certificate of voters under the conditions and in the manner provided by the laws relating to such petitions or certificates, so far as applicable; provided, that in any case where the vacancy is to be filled at the general election and where candidates therefor are to be nominated at the regular primary election or at a special primary held not less than five days before the expiration of the time prescribed by law for filing nominating petitions or certificates for candidates for like offices at the general election, nominating petitions or certificates for candidates for such vacancy shall be filed within the time so prescribed, and in all other cases nominating petitions or certifi-

cates for candidates under this act shall be filed not later than the fifth day preceding the election at which the vacancy is to be filled.

Sec. 6. Auditor to post notice.—Every writ issued by the governor under this act shall be forthwith filed with the secretary of state, who shall immediately transmit a certified copy thereof by registered mail to the county auditor of each county in which candidates for the vacancy are to be voted upon. At least five days before the expiration of the time for filing affidavits of candidates specified in the writ, as hereinafter provided, the county auditor of each county concerned shall post a copy of the writ at his office and shall cause a copy thereof to be published once in a qualified legal newspaper published at the county seat. He shall also cause posted notice of the primary and of the election to be given in each election district in the county in the manner provided by law at least five days before the primary and at least twelve days before the election. In any case where the primary is to be held on the seventh day before the election, both may be included in the same notice, and in any case where either the primary or the election is to be held on the same day as any other election, notice of the primary or election to be held under this act may, if practicable, be included in the notice of such other election. But no omission of or defect in any publication or posting of any such writ or notice shall invalidate any primary or election held under this act.

Sec. 7. Filing of candidates.—Candidates for nomination to fill a vacancy in any office at any primary under this act shall file their affidavits within the times hereinafter prescribed with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for like offices at regular primary elections. In any case where such nominations are to be made on the regular primary election day and where the governor's writ can be issued in accordance with the provisions of this act a sufficient time before the close of the regular time for filing for like offices so as to permit the publication of the writ as hereinbefore provided, the writ shall be so issued, and shall state that such affidavits may be filed within the time prescribed by law for the regular primary election, and thereupon all such affidavits shall be so filed. In all other cases the writ shall state that such affidavits may be filed not later than the seventh day before the primary and thereupon all such affidavits shall be so filed. In any case where affidavits of candidates have been filed with the secretary of state, he shall certify the names of such candidates to the county auditors of all counties in which

they are to be voted upon within twenty-four hours after the close of the time for filing, and thereupon the filing fees received by the secretary of state shall be disposed of as provided by the laws governing regular primary elections.

Sec. 8. Names on ballots.—Only the names of candidates who have duly filed as hereinbefore provided shall be placed upon the ballots for any primary held under this act, and only the names of candidates who have been duly nominated as hereinbefore provided shall be placed upon the ballots for any election held under this act. Blank spaces for writing in names shall be provided upon such election ballots as upon general election ballots, but not upon such primary ballots. Except as otherwise hereinafter provided, the county auditor of each county concerned shall prepare special ballots for every election and primary to be held under this act. Such ballots shall be headed, "Special Election Ballots" or, "Special Primary Ballots," as the case may be, followed by the date of the election or primary. Immediately below the title of each office to be filled there shall be printed the words, "To fill vacancy in term expiring————," with the date of expiration of the term and such other information as may be necessary to distinguish such office from any other office to be voted upon at the same election or primary. Otherwise such ballots shall conform, as far as practicable, with the laws relating to ballots for general elections and regular primary elections, respectively. The county auditor shall post a sample of each such ballot in his office as soon as prepared and not later than four days before the election or primary, as the case may be, but need not publish any such sample ballot. But in any case where candidates are to be voted for under in this act on the general election day or are to be nominated on the regular primary election day, as the case may be, and where the canvass of the returns is to be made by the regular county canvassing board, as hereinafter provided, and where the ballots for such general election or primary, as the case may be, have not been printed when the names of the candidates under this act have been finally determined as herein provided, the county auditor shall place the names of such candidates upon the regular ballots used for like offices at the general election or primary, as the case may be, designating the office to be filled in the same manner as hereinbefore provided for special ballots.

Sec. 9. Election districts—officials.—The election districts and officials for any special election or primary held under this act shall be the same as at the last preceding general election unless changed according to law, and the existing registers of

voters shall be used without making any new registrations. In any place where the permanent registration system is in force under Laws 1923, Chapter 305, and acts amendatory thereof or supplementary thereto, or under any other law establishing a similar system, nor person shall be allowed to vote at any such special election or primary unless registered under such system; provided, that notwithstanding any provisions in any law now or hereafter governing such system to the contrary, voters shall be permitted to register under such system for any special election held under this act and for the primary therefor up to and including the sixth day preceding the primary, not counting any Sunday or legal holiday, after which day no further registrations shall be received for such special election or primary unless and except as permitted by the laws governing such system; provided further, that in case any election or primary under this act is held on the same day as any other election, no registrations shall be received for the election or primary held hereunder except as permitted by the laws governing such system for such other election.

Sec. 10. Returns—Canvassing board.—The returns of any primary held under this act shall be transmitted forthwith when completed to the county auditor of the county wherein such primary is held and shall be canvassed on the next day other than a Sunday or a legal holiday following such primary by a canvassing board consisting of the county auditor, county treasurer, and clerk of the district court of such county, any two of whom, being present, shall have power to act; provided, that in any case where the primary under this act is held on the regular primary election day and where the election under this act will not be held within seven days after the time fixed by law for the meeting of the county canvassing board for the regular primary election, the returns of the primary held under this act shall be canvassed by such county canvassing board at their regular meeting. The canvassing board shall determine and declare the results of the primary held under this act and shall forthwith certify in writing a statement thereof, showing the total number of votes received by each candidate and shall file the same with the county auditor. In case the primary is held in a single county, the county auditor shall forthwith in writing notify the successful candidates of their nomination. In case the primary is held in a district comprising more than one county, the county auditor of each other county in the district shall forthwith transmit a certified copy of the statement of the canvassing board to the county auditor of the county in such district which cast the highest number of votes for governor at the last preceding general election, who shall file the same, and, when all of such cer-

tified copies have been received, shall forthwith canvass the same together, and shall thereupon determine and declare the results of such primary, and shall forthwith certify in writing and file in his office a statement thereof, showing the total number of votes received by each candidate in each county and in the entire district, and shall transmit a certified copy thereof to each other county auditor in the district, and shall forthwith in writing notify the successful candidates of their nomination. Provided, that in any case where the primary under this act has been held on the regular primary election day and the election under this act is to be held on the next general election day, the returns of the primary under this act shall be made and canvassed and the results thereof declared and certified together with and in the same manner as the returns of the regular primary election for offices of the same kind as that to be filled under this act.

Sec. 11. County Auditor to issue certificate of election.—The returns of any special election held under this act shall be transmitted forthwith when completed to the county auditor of the county wherein such election is held and shall be canvassed on the next day other than a Sunday or a legal holiday following such election by a canvassing board constituted as hereinbefore for a special primary, which board shall determine and declare the results of such election and certify and file a statement thereof in like manner as hereinbefore provided for such special primary. In case the election is held in a single county, the county auditor shall forthwith issue a certificate of election to the person receiving the highest number of votes for each office to be filled at the election, as shown by the statement of the canvassing board. In case the election is held in a district comprising more than one county, the county auditor of each county in such district shall forthwith transmit a certified copy of the statement of the canvassing board to the secretary of state, who shall file the same, and, when all of such certified copies have been received, shall forthwith canvass the same together and shall thereupon determine and declare the results of the election, and shall forthwith certify in writing and file in his office a statement thereof, showing the total number of votes received by each candidate in each county and in the entire district, and shall forthwith issue a certificate of election to the person receiving the highest number of votes for each office to be filled at the election as shown by such statement. Provided, that in any case where the election under this act is held on the general election day and where the governor's writ has not required that such election be held as a separate special election on such day,

as hereinbefore provided, the returns of such election shall be canvassed and the results thereof declared and certified together with and in the same manner as the returns of the general election for offices of the same kind as that to be filled under this act.

Sec. 12. General laws to govern.—Except as otherwise provided by this act, all elections and primaries held hereunder and all matters pertaining thereto shall be governed by the laws relating to general elections and regular primary elections and matters pertaining thereto, respectively, so far as such laws are applicable and so far as may be necessary to carry out the provisions of this act.

Sec. 13. Laws repealed.—General Statutes 1923, Section 262, as amended by Laws 1925, Chapter 420, General Statutes 1923, Sections 263 to 270, inclusive, and Laws 1925, Chapter 389, are hereby repealed, and all other acts and parts of acts inconsistent herewith are hereby repealed to the extent of such inconsistency.

Approved April 23, 1929.

CHAPTER 298—S. F. No. 814

An act authorizing counties having an area in excess of five thousand square miles to appropriate and expend money for the purpose of clearing, deepening, widening or straightening the beds of rivers and creeks therein to prevent flooding lands.

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

Section 1. Counties may appropriate money for improvement of rivers.—The county board of any county now or hereafter having an area in excess of five thousand square miles is authorized to appropriate and expend money for the purpose of clearing, deepening, widening or straightening the bed of any river or creek in order to prevent the flooding of lands thereby. Provided that not more than five thousand dollars (\$5,000) may be appropriated and expended during each bi-annual period.

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