

pal services shall be upon such terms and conditions as may be determined by the governing body of such city.

Nothing herein contained shall be construed as limiting any power now possessed by any such city under its home rule charter or any existing law.

Approved April 8, 1949.

CHAPTER 328—H. F. No. 696

[Coded as Section 110.127]

An act relating to the improvement of public waters in order to improve navigation thereon and in order to promote the public health, safety and welfare, establishing procedure in certain counties for determining and awarding damages and assessing benefits arising therefrom.

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

[110.127] **Section 1. Hennepin County; improvement of public water.** In any county in this state now or hereafter having a population of 500,000 inhabitants or over, the board of county commissioners thereof, in proceedings for the improvement of any body of water pursuant to Laws 1947, Chapter 123, for the purpose of improving navigation thereon and to promote the public health, safety and welfare through the improvement of marshy areas or otherwise, shall, in addition to the powers granted by said Chapter 123, have the power to determine and award damages to property affected thereby and to determine and assess against property affected thereby special assessments for benefits resulting in any way from such improvement, in the manner herein set forth.

Sec. 2. Plan; dams, bridges and culverts; map. The board of county commissioners shall first cause a detailed plan of the proposed improvement to be made containing a general description of the nature of the improvement; the location and relocation of proposed dams, bridges and culverts; the legal description of each tract of land which may be damaged or benefited as a result of such improvement; the name of the owner of each such tract of land as shown by the most recent

available tax list of such county and the names of any persons in possession thereof; a map showing the area of the public water affected and the tracts of land bordering on such area; the estimated cost of such improvement exclusive of damage to property; and an engineer's report showing details of construction of proposed dams, bridges and culverts.

Sec. 3. Appraisal. When, pursuant to said Chapter 123 and as provided in Minnesota Statutes 1945, Sec. 117.01 through 117.20, petition is made to the court for the appointment of commissioners of appraisal, petitioner shall annex to the petition a copy of the plan of improvement prescribed by Sec. 2 hereof, and the court appointing such commissioners shall in its order of appointment provide that they shall, in addition to the determination and award of damages arising out of such improvement, assess special benefits resulting in any way therefrom to any lands affected thereby.

Sec. 4. Appraisers. The commissioners of appraisal shall, in addition to the determination and appraisal of damages sustained on account of taking under the right of eminent domain, determine and report what lands, if any, are especially benefited by such improvement wherever situate and whether contiguous or not. If the total of all the damages to any particular lands exceeds the benefits thereto, the excess shall be awarded as damages. If the benefits thereto exceed the total of all the damages to any particular lands, the difference shall be assessed as benefits. The total assessment for benefits shall not be greater than the aggregate net award of damages added to the estimated costs of construction, less the amount of moneys appropriated by the county and received by the county in the form of gifts for the purpose of carrying out such improvement. In every case the benefits assessed upon any land shall be in proportion to the actual benefits received, and no assessment upon any particular land shall exceed the amount of actual special benefits after deducting the damages, if any. The lands as to which damages are so awarded or benefits are so assessed shall be deemed to include all the lands damaged and benefited, wherever situate and affected in any way by such improvement.

Sec. 5. Appraiser's report. The commissioners of appraisal having determined and appraised the damages and assessed the benefits, as aforesaid, shall make and file with the court a written report of their action in the premises, under their hands, including a tabular statement showing as far

as practicable: (1) the names of the owners of each tract of land to be benefited or damaged, including lands owned by the state or any department or subdivision thereof; (2) a description of each tract to be benefited or damaged, and the total number of acres of each tract and the estimated number of acres in each tract to be benefited or damaged; (3) the amount of damage, if any, that will accrue to each said tract of land; (4) the amount of benefit, if any, that will accrue to each said tract of land; (5) the total amount of benefit or damage resulting to each said tract of land; (6) the total estimated benefits and damages of every kind and nature ascertained and determined by them; and (7) the total expenses incurred by them and the actual time each appraiser was engaged. This report shall be substituted for and shall be in lieu of the report required pursuant to said Chapter 123, of Minnesota Statutes 1945, Sec. 117.08.

Sec. 6. Appeal. The same right of appeal as set forth in Minnesota Statutes 1945, Sec. 117.13, 117.14, and 117.15, in respect to damages is hereby established as the method of appeal from any assessment of benefits hereunder and judgment shall be entered upon the verdict or decision in the same manner.

Sec. 7. Determination of appeals; levy of taxes. Upon the determination of appeals taken in the proceeding in regard to assessment of benefits and when the period of limitations has run against appeals from such assessment of benefits, the assessments of benefits as reported by the commissioners of appraisal shall be final and conclusive. A copy of the report of the commissioners as to each assessment of benefits as finally determined shall be filed by the clerk of the court with the auditor of the county, and each assessment shall be a lien in the amount thereof upon the land to which it relates. The county auditor shall file a copy of the report of the commissioners as to each assessment of benefits as finally determined with the register of deeds of such county, and the lien shall be effective from the time of such filing. Such assessments may be distributed, on order of the board of county commissioners, over a term of years not exceeding ten and shall be collected with the taxes levied on the lands to which each relates. Assessments when collected shall be paid into the county fund out of which original expenditures for such improvement were made.

Sec. 8. Dams. In the event that a new dam is constructed in connection with such improvement, the board of

county commissioners shall have power and authority to remove any dam rendered useless by the construction of said new dam.

Sec. 9. Modification; awards and assessments. The board of county commissioners shall have the right at any time during the pendency of any proceedings for an improvement conducted pursuant hereto, or at any time within 90 days after the final order of the court on the last of all appeals from such proceedings, or if there be no appeals therefrom within 90 days after the period of limitations for such appeals has run, to set aside any or all awards or assessments and abandon all such proceedings as to any or all lands affected when it shall deem it for the best interest of the county to do so.

Approved April 8, 1949.

CHAPTER 329—H. F. No. 713

[Not Coded]

An act validating deeds to real property within this state heretofore given by a trustee appointed in another state.

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

Section 1. Validation of deeds executed by a trustee appointed by a court of another state. All deeds to real property within this state, heretofore given by a trustee appointed by a court in another state and given pursuant to a power of sale provided in the trust instrument or will, or where the sale was confirmed by a court of such state, are hereby declared to be in all respects legal and valid conveyances. This act shall not apply to any action now pending.

Approved April 8, 1949.

CHAPTER 330—H. F. No. 819

An act relating to the procedure and jurisdiction of conciliation courts; amending Minnesota Statutes 1945, Sections 491.03 and 491.04.