

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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6840-119. Same—Existing liens not affected.

Refunding of ditch bonds pursuant to subsections 117 and 118 of this section does not impair the lien of the county. Op. Atty. Gen., Apr. 12, 1933.

Refunding of ditch bonds would not impair lien of county. Op. Atty. Gen., Apr. 12, 1933.

6840-133. Counties may purchase dredges in certain cases.—In any county of this state having an area of not more than 2500 square miles and open drainage ditches heretofore constructed of not less than 240 miles in length, the board of county commissioners, with the written consent of the commissioner of drainage and waters first procured and filed in the office of the county auditor, may purchase, in the manner provided by law for the purchase of road machinery and equipment, a dredge or ditching machine for use by the county in cleaning out, in the construction of new ditches and repairing county, judicial or state ditches. ('27, c. 140, §1; Mar. 9, 1929, c. 50.)

6840-134. May lease machines to contractors.—The county board, in any county which has purchased such dredge or ditching machine, may employ the same in cleaning out, in the construction of new ditches and repairing county road ditches and may use, or allow the use thereof by a contractor, in the construction of new ditches and in the cleaning out or repairing of any county, judicial or state ditch heretofore constructed, on such terms and conditions as to rental and maintenance charges for the use thereof as the board shall determine to be fair and reasonable. The charges for such rental and the expense of maintenance of the machine, when employed by the board on any county, judicial or state ditch-cleaning or in the construction of new ditches or repair work, shall constitute a part of the cost of such construction, cleaning and repair operation and shall be paid out of the proper ditch fund provided for the maintenance of the ditch so cleaned, constructed, or repaired, all such charges for the use of the machine to be credited to the county. ('27, c. 140, §2; Mar. 9, 1929, c. 50.)

TOWN DITCHES

6872. Repairs.

There is no duty on town board to repair ditches unless petition is filed. Op. Atty. Gen. (151c), June 22, 1937.

FINANCIAL PROVISIONS

6912-1. County Board may negotiate for extension of payment of bonds.—The County Board of any county in which there is situated any drainage district having a bonded indebtedness, shall have authority to negotiate with the holders of the bonds of such drainage district for the extension of the time of payment and the reduction of the rate of interest. In the event that the holders of two-thirds of the aggregate amount of such bonds shall consent in writing to such an extension of the time of payment or to such a reduction of the rate of interest, or to both, and the County Board shall agree to such changes in the terms of such bonds, such changes shall become binding upon such county drainage district and upon all the holders of bonds against such drainage district, who shall have consented thereto, or who shall hereafter consent thereto, in writing. (Act Apr. 1, 1933, c. 140.)

CURATIVE AND MISCELLANEOUS PROVISIONS

In a proceeding to construct judicial ditch under Laws 1925, c. 415, the petition need be signed only by majority of residence owners, or by owners of 51% of the land affected, not by owners of lands benefited; such lands not being known until after survey. 172M295, 216NW 229.

6913-B. Errors.

Where ditch did not provide benefits contemplated for particular land, assessments paid could be refunded and charged against drainage district. Op. Atty. Gen., Feb. 8, 1934.

6914. Reassessment for increased cost.

Act Apr. 24, 1937, c. 386, provides that in counties having assessed valuation of \$9,000,000 to \$11,000,000, 27,000 to 28,000 inhabitants, and 27 to 28 townships, reassessment may be made where part of ditch plan has been abandoned.

Act July 15, 1937, Sp. Ses., c. 56, amends the title and section 1 of Act Apr. 24, 1937, c. 386.

6926. Proceedings heretofore commenced to be completed under provisions of then existing law.

Act Mar. 24, 1937, c. 98, legalizes drainage proceedings completed prior to Mar. 24, 1937.

CHAPTER 44A
Soil Conservation

6932-1. Purpose and application of act.—As a guide to the interpretation and application of this act, the public policy of the State of Minnesota is declared to be as follows: Improper land use practices have caused and contributed to serious erosion of farm and grazing lands of this state by wind and water and that thereby top soil is being washed out of fields and pastures, and speeded up the removal of the absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; and that land occupiers have failed to cause the discontinuance of such practice as creates said condition, and the consequences thereof have caused the deterioration of soil and its fertility and the deterioration of crops grown thereon, and declining yields therefrom, and diminishing of the underground water reserve, all of which have caused water shortages, intensifies periods of drought and crop failure, and thus brought about suffering, disease and impoverishment of families, and the damage of property from floods and dust storms; and that all of said effects may be prevented by land use practices contributing to the conservation of topsoil by the carrying on of engineering operations such as the construction of terraces, check-dams, dikes, ponds, ditches, and the utilization of strip cropping, lister furrowing, contour cultivating, land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees and grasses.

It is hereby declared that it is for the public welfare, health and safety of the people of Minnesota to provide for the conservation of the soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, and protect public lands, by land use practices as herein provided for. (Apr. 26, 1937, c. 441, §1.)

6932-2. Definitions.—Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

(1) "District" or "soil conservation district" means a governmental subdivision of this State, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Committee" or "State soil conservation committee" means the agency created in Section 3 of this act.

(4) "Petition" means a petition filed under the provisions of subsection A of Section 4 of this act for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of Section 5 of this act to nominate candidates for the office of supervisor of a soil conservation district.

(6) "State" means the State of Minnesota.

(7) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State.

(8) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this State, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise.

(11) "Due notice" means notice published at least twice, with an interval of at least 7 days between the two publication dates, in a legal newspaper, and by posting at three conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates. (Apr. 26, 1937, c. 441, §2.)

6932-3. State soil conservation committee established.—A. Committee established—membership—record—public hearings—rules.—There is hereby established, to serve as an agency of this State and to perform the functions conferred upon it in this act, the State Soil Conservation Committee. The committee shall consist of five ex-officio members as follows: One, the Director of the Agricultural Extension Service of the University of Minnesota; two, the Dean of the Department of Agriculture of the University of Minnesota; three, the Conservation Commissioner of the State of Minnesota; four, the Commissioner of Agriculture of the State of Minnesota; five, such person as may be appointed by the Secretary of Agriculture of the United States, or, in the event of his failure to appoint such person within thirty days after the receipt of a certified copy of this act, then such fifth member of said committee shall be appointed by the Governor of the State of Minnesota. The committee shall keep a record of its official actions, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

B. Administrative officer—experts—employees—advice of attorney general—delegation of powers—aid of state agencies.—The State soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the State for such legal services as it may require. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to

which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

C. Chairman—tenure of members—quorum—compensation—expenses—surety bonds for employees—records—audit.—The committee shall designate its chairman, and may annually from time to time, change such designation. A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; the Comptroller of the State of Minnesota shall annually audit the books of said committee.

D. General duties and powers.—In addition to the duties and powers hereinafter conferred upon the State soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts.

(5) To disseminate information throughout the State concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable. (Apr. 26, 1937, c. 441, §3.)

6932-4. Creation of Soil Conservation Districts. A. Petition.—Any twenty-five (25) occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district;

(2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivision, but shall be deemed sufficient if generally accurate;

(4) A request that the State soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State soil conservation committee may consolidate all or any such petitions.

B. Notice—hearing—adjournment—determination—matters considered—territory included—subsequent petitions.—Within thirty (30) days after such a petition has been filed with the State soil conservation committee, it may cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, and a majority of the fee owners of land in said proposed district have consented, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the public policy set forth in Section 1 of this act. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing, after due consideration of the said relevant fact, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions concerning the case or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. Practicability of district—election.—After the committee has made and recorded a determination that there is a need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding

that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county (ies) of and" and "Against creation of a soil conservation district of the lands below described and lying in the county (ies) of and" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All occupiers of lands lying within the boundaries of the territory, as determined by the State soil conservation committee, shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote.

D. Expenses—supervision by state committee—irregularities.—The committee shall pay all expenses for the issuance of such notices and the conduct of such hearing and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. Publication of result of election—organization of district—respecting attitude of land occupiers and result of election.—The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the public policy set forth in Section 1 of this act; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. Supervisors, appointment and election—body corporate—application to secretary of state—statement by committee—name of district—certificate of organization—boundaries.—If the committee shall

determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the State soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this State. The secretary of state shall make and issue to the said supervisors a certificate, under the seal of the State, of the due organization of the said district, and shall record

said certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

G. Subsequent petitions.—After six (6) months shall have expired from the date of entry of a determination by the State soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act.

H. Annexation of territory—petition—referendum.—Petitions for including additional territory within an existing district may be filed with the State soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

I. Evidence of organization—certificate.—In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof. (Apr. 26, 1937, c. 441, §4.)

6932-5. Election of three supervisors for each district.—Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the State soil conservation committee to nominate candidates for supervisor of such district, such candidates to be only such persons as are residents of the district. The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee, unless it shall be subscribed by twenty-five (25) or more occupiers of lands lying within the boundaries of such district. Land occupiers may sign more than one such nominating petition to nominate more than one candidate for supervisor. The committee shall give due notice of an election to be held for the election of three supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in the square before any three names to indicate the voter's preference. All occupiers of lands lying within the district who are qualified electors as designated by the provisions of the Minnesota State Statutes shall be eligible to vote in such election. Only such land occupiers shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The committee shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the

determination of the eligibility of voters therein, and shall publish the results thereof. (Apr. 26, 1937, c. 441, § 5.)

6932-6. Appointment, qualifications and tenure of supervisors—organization.—The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided hereinabove. The two supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder.

Th supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of 1 and 2 years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring supervisors shall, respectively, have been selected. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties if funds are available therefor.

The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The county attorney of the district in which the major portion of said soil conservation district is located, shall be the attorney for said district, and the supervisors thereof, and the said supervisor may call upon said attorney for the necessary legal counsel and advice and service. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the State soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; the State Comptroller shall annually audit the books of said soil conservation district and its supervisors. Any supervisor may be removed by the State soil conservation committee upon notice and hearing, for neglect of duty of malfeasance in office but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county. (Apr. 26, 1937, c. 441, § 6.)

6932-7. Powers of districts and supervisors.—A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers and such district, and the supervisors thereof, shall have the foregoing powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this State or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures referred to in Section 1 of this act, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, including the owner of the fee thereof.

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this act, to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state. (Apr. 26, 1937, c. 441, §7.)

6932-8. Adoption of land-use regulations.—The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the district shall be eligible to vote in such referendum.

Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least 85% of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by 85% of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of lands within such district.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include;

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;
2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;
3. Specifications of cropping programs and tillage practices to be observed;
4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;
5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the declaration of public policy set forth in Section 1 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers of lands lying within the district. (Apr. 26, 1937, c. 441, §8.)

6932-9. Enforcement of land-use regulations.—The supervisors may have authority with the consent of the occupier thereof to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 8 of this act are being observed. (Apr. 26, 1937, c. 441, §9.)

6932-10. Act not to be compulsory.—Nothing in this act shall be deemed to be compulsory upon any land occupier. (Apr. 26, 1937, c. 441, §10.)

6932-11. Board of adjustment.—A. Membership—appointment and removal—tenure—eligibility—compensation—expenses.—Where the supervisors of any district organized under the provisions of this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 8 hereof, they, shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of 1, 2, and 3 years, respectively. The members of each such board of adjustment shall be appointed by the State soil conservation committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of five dollars (\$5.00) per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties if funds are available therefor. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

B. Rules of procedure—chairman—meetings—quorum—witnesses—record.—The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act and with the provisions of any ordinance adopted pursuant to this section. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

C. Petitions by land occupiers—hearing—appearance—determination and record.—Any land occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied or owned by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the State soil conservation committee personally or by registered mail. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State soil conservation committee shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the

district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person or by attorney. If, upon the facts presented at such hearing, the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

D. Review—procedure—determination—conclusiveness.—Any petitioner aggrieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district, or any intervening party, may obtain a review of such order in any district court, by commencing in such court an action to have the order of the board modified or set aside. Upon such an action being commenced, the court shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary and permanent relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The matter as heard in the district court shall be a trial de novo or may be heard by stipulation of the parties to said action upon the record made before the Board of adjustment. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the district court in civil actions. (Apr. 26, 1937, c. 441, §11.)

6932-12. Cooperation between districts.—The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act. (Apr. 26, 1937, c. 441, §12.)

6932-13. State agencies to cooperate.—Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to Section 8 of this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands. (Apr. 26, 1937, c. 441, §13.)

6932-14. Discontinuance of districts.—At any time after five (5) years after the organization of a district under the provisions of this act, and twenty-five (25) occupiers of land lying within the boun-

daries of such district may file a petition with the State soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district all occupiers of lands lying within the boundaries of the districts shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, and probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the declaration of public policy set forth in Section 1 of this act; provided, however, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the State soil conservation committee of a certification that the committee has determined that the continued operation of the district

is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the State treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the State soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of section 10 of this act, nor the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in two (2) years. (Apr. 26, 1937, c. 441, §14.)

6932-15. Provisions severable.—If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. (Apr. 26, 1937, c. 441, §15.)

6932-16. Short title.—This act may be known and cited as the Minnesota Soil Conservation Districts Law. The Governor of the State of Minnesota shall cause to be furnished to the Secretary of Agriculture of the United States by registered mail, a certified copy of this act within ten days after its approval by him. (Apr. 26, 1937, c. 441, §16.)

CHAPTER 46

Notaries Public

6938. Term—Bond—Oath.

Owner of property had no cause of action against a notary public for wrongful and false certificate of the execution of a bill of sale which was forged, the plaintiff not being divested of his title by the forged instrument. *Ziflow v. C.*, 175M615, 221NW244.

Official action of notary public is not affected by insolvency of surety, but impairment of bonds does not affect liability of principal. *Op. Atty. Gen.*, Oct. 25, 1933.

Conviction of crime vacates office of notary public and restoration of civil rights does not reinstate officer and

he cannot take acknowledgment without issue of a new commission. *Op. Atty. Gen.* (320j), Dec. 13, 1934.

Commission of notary public does not automatically terminate upon insolvency of bonding company or surety, but he should be notified to furnish a new bond, but the furnishing of a new bond does not extend term for which originally appointed. *Op. Atty. Gen.* (320b), May 15, 1937.

6939. Seal—Register.

A notary's certificate of acknowledgment without the seal is a nullity, and filing of chattel mortgage in office