

CHAPTER 113

DRAINAGE; IRRIGATION, OTHER PROVISIONS

<p>Sec. 113.01 Dams and dikes authorized for irrigation purposes 113.02 License to be secured from state drainage engineer 113.03 Bond 113.04 Under supervision of engineer 113.05 Not to interfere with public ditches 113.06 Violation a misdemeanor 113.07 Errors 113.08 Reassessment for increased cost 113.09 Duties of engineer</p>	<p>Sec. 113.10 Special meeting of county board; notice 113.11 Hearing 113.12 Order for assessment 113.13 Duty of auditor; lien 113.14 Statement filed 113.15 Appeal 113.16 Repair and maintenance of certain districts 113.17 Construction and maintenance of bridges 113.18 Proceedings heretofore commenced to be completed under provisions of then existing law</p>
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113.01 DAMS AND DIKES AUTHORIZED FOR IRRIGATION PURPOSES. The owner of any land in this state which is suitable for the culture of wire grass, cranberries, rice, or other crops requiring irrigation, may, upon being licensed, as hereinafter provided, construct upon the lands so owned, and across or upon that portion of any public ditch, drain, or watercourse situated within the boundaries of the land, such dams, dikes, or other regulating or controlling works, as may be necessary to secure the use of the water for irrigation. Any dam so constructed shall contain properly constructed gates of sufficient size to carry off the flood water above high-water mark within 24 hours.

[1915 c. 189 s. 1] (6927)

113.02 LICENSE TO BE SECURED FROM STATE DRAINAGE ENGINEER. Any owner desiring to avail himself of the provisions of sections 113.01 to 113.06 shall apply for license so to do to the state drainage engineer, who shall issue a license to the applicant for the same, under such rules and regulations and guarantees as he may require.

[1915 c. 189 s. 2] (6928)

113.03 BOND. Before any license is granted the licensee shall execute a bond to the State of Minnesota for the use of all persons who may be injured by the construction, conditioned for the payment of all damages to persons or property by reason of the construction of the dams, dikes, or the use of the water.

[1915 c. 189 s. 3] (6929)

113.04 UNDER SUPERVISION OF ENGINEER. All dams, dikes, or other works or structures constructed or erected under the provisions of sections 113.01 to 113.06 shall be under the supervision and direction of the state drainage engineer.

[1915 c. 189 s. 4] (6930)

113.05 NOT TO INTERFERE WITH PUBLIC DITCHES. Nothing in sections 113.01 to 113.06 shall be construed as authorizing any act interfering with the benefit and utility of any public ditch, drain, or watercourse, nor to in any manner authorize the use of the water to the damage or injury of the land of any other person; and, if at any time it appears that the structures herein authorized cannot be maintained without impairing the utility of a public drain or watercourse, nor without depriving other land owners of the benefit thereof, then and in that case, such license shall, upon demand of the owner or owners of such other land, be immediately revoked.

[1915 c. 189 s. 5] (6931)

113.06 VIOLATION A MISDEMEANOR. Any person violating any provision of sections 113.01 to 113.05 shall be guilty of a misdemeanor.

[1915 c. 189 s. 6] (6932)

113.07 ERRORS. Whenever in any county or judicial ditch proceedings conducted under Laws 1905, Chapter 230, and acts amendatory thereof and supplementary thereto, it shall appear that the ditch has been regularly established and the contract let and tabular statement made and filed and the bonds issued and sold as provided in Chapter 230, and the contract wholly completed, and that by reason of an error on the part of the engineer in computing the yardage or other work pertaining to the ditch, or by reason of unforeseen obstacles having arisen after the letting of the contract, thereby increasing the total cost of the ditch; or where

MINNESOTA STATUTES 1941

1009

DRAINAGE; IRRIGATION, OTHER PROVISIONS 113.10

for any other reason it shall appear, when the ditch is completed, that the total amount of the tabular statement filed and the amount of bonds issued is less than the total cost of the ditch, and that the total amount of benefits, as returned by the viewers and shown by the records in the proceedings, exceeds the amount of the tabular statement filed and bonds issued and such facts are made to appear to the county board by report of the county auditor, or otherwise, the county board is hereby authorized, by resolution made and entered, to direct the county auditor to issue notice to the parties interested in the ditch proceedings and serve the same by publication for at least two weeks and by mailing notice to the last known addresses of all parties interested, as shown by the records in the proceedings, requiring all such parties to show cause before the county board why an order should not be made directing the county auditor to file another tabular statement assessing against the property affected by the proceedings, in the same proportion as the original assessment, the total cost of the ditch in excess of the total amount of the tabular statement previously filed, not to exceed the total amount of benefits as shown by the viewers' report; and, upon the hearing, the county board is hereby authorized to cause to be made and entered an order directing the county auditor to make and file an additional tabular statement in form as provided in section 313.03, covering the deficiency between the amount of the previous tabular statement filed and the total cost of the ditch and assess the same against the lands benefited in the same proportion as the original summary statement filed; and the county board is further hereby authorized, when the amount so levied shall exceed the sum of \$5,000, to issue and sell bonds of the county, as provided in section 106.40, to include the whole or such portion of the amount as it may direct, covered by the additional tabular statement so filed; and the tabular statement so filed, as herein provided, shall constitute a first lien against the property, as provided in section 106.41, except only as to previous statement filed; and it shall be the duty of the county auditor to cause the statement to be recorded, as provided in section 106.42; and the provisions of sections 106.45 and 106.46 shall apply to and govern the acts and duties of the several officials in the collection of the assessment so levied. This section shall not apply in any case where the matter in issue has already been determined by the court.

[1919 c. 471 s. 15] (6913-B)

113.08 REASSESSMENT FOR INCREASED COST. In any county when a ditch has been established under the provisions of Laws 1905, Chapter 230, and tabular lists and statements have been made, filed, and recorded, as provided by Chapter 230, Sections 19 and 20, which have not included the increased cost of such ditch, caused by a modification of the plans and specifications by the engineer as the work has proceeded, or where a part of the cost of such ditch was erroneously assessed against the right of way or other land owned by a railroad company, which was exempt by law from such assessment, the amount of such increased cost arising from such modification of plans when the same does not exceed two per cent of the total original cost of such ditch, or the part of the original cost so erroneously assessed against railroad property, may be assessed against the property which was properly subjected to the assessment for such ditch, and the board of county commissioners of any county in which such ditch has been established is hereby authorized to determine what proportion of such assessment each piece, parcel, or tract of land affected shall bear, and to assess the same against such lands according to the same rules which governed the first assessment.

[1907 c. 246 s. 1] (6914)

113.09 DUTIES OF ENGINEER. The engineer in charge of the construction of any such ditch, who, as the work has proceeded, has modified the plans and specifications of the same, whereby changes have been made which have increased the total cost of such ditch, shall ascertain the correct amount of such cost and shall forthwith make and file with the county auditor a detailed and verified report of the same.

[1907 c. 246 s. 2] (6915)

113.10 SPECIAL MEETING OF COUNTY BOARD; NOTICE. Upon the filing of such engineer's report with him, or upon his own ascertainment of the fact that any part of the original cost of the ditch was assessed against exempt railroad property, the county auditor shall forthwith call a special meeting of the board of county commissioners, by giving to each member thereof not less than 15 days'

written notice, and cause a notice of the time and place of such special meeting to be given to all persons interested, by publication for one week prior thereto in a newspaper printed and published in the county, and by posting at least one week before such meeting printed copies thereof in three public places in each township where such ditch is located, which notice shall state the object and purpose of such meeting, and in addition thereto the auditor shall mail a notice of the meeting to all persons interested whose addresses are known to him or can be ascertained by inquiring at the treasurer's office.

[1907 c. 246 s. 3] (6916)

113.11 HEARING. The board of county commissioners at the special meeting being satisfied that the notice thereof has been given as provided in section 113.10, shall (or at any time to which it may adjourn from time to time, as necessity may require, but not otherwise) proceed to hear and consider the matter, and all persons interested may appear and be heard by and before it.

[1907 c. 246 s. 4] (6917)

113.12 ORDER FOR ASSESSMENT. If from the engineer's report and such other evidence as may be adduced before it the county board shall find that by a modification of the plans and specifications the total cost of the ditch has been increased by not more than two per cent of the total original contract price for the construction thereof, or that any part of the original cost was erroneously assessed against exempt railroad property, it shall by order determine the proportionate part thereof which shall be assessed against each piece, parcel, or tract of unexempt land affected.

[1907 c. 246 s. 5] (6918)

113.13 DUTY OF AUDITOR; LIEN. The board having made its order reassessing the lands it shall be the duty of the county auditor forthwith to make out, file, and have recorded, a tabular list and statement, as provided in Laws 1905, Chapter 230, Sections 19 and 20, and the amount assessed against each piece, parcel, or tract of land, as stated in such list and statement, shall be a lien thereon from the time of the recording of such statement in the office of the register of deeds until collected and fully paid, as provided in Chapter 230.

[1907 c. 246 s. 6] (6919)

113.14 STATEMENT FILED. The fees of the register of deeds for recording such supplemental list and statement shall be paid by the county, on the allowance of the board of county commissioners, and the statement, after the same has been recorded, shall be returned to the auditor to be by him placed with other papers relating to such ditch and carefully preserved by him.

[1907 c. 246 s. 7] (6920)

113.15 APPEAL. Any person or corporation aggrieved thereby may appeal from the order of the board of county commissioners made with reference to such reassessment, for the same reasons and in the manner prescribed in Laws 1905, Chapter 230, Section 12.

[1907 c. 246 s. 8] (6921)

113.16 REPAIR AND MAINTENANCE OF CERTAIN DISTRICTS. In all counties in this state which now have or may hereafter have 292,000 inhabitants or more according to the last state census, where a judicial ditch has been constructed along a creek or watercourse and where such creek or watercourse flows into a navigable lake lying wholly or in part within such county the board of county commissioners thereof shall pay for the repair and maintenance of the ditch or watercourse out of the lake improvement fund and shall not assess the expense thereof upon the adjoining lands.

[1907 c. 75] (6922)

113.17 CONSTRUCTION AND MAINTENANCE OF BRIDGES. In all cases where a public drainage ditch has been, or shall hereafter be constructed wholly or partly along a boundary line between towns or counties and the excavated material or a portion thereof has been or shall hereafter be deposited on the boundary line or within two rods on either side thereof, the cost of construction and maintenance of all bridges heretofore or hereafter constructed across any such ditch along the boundary line shall be paid for and borne equally by the town and county wherein the bridges are or shall be constructed and the town and county adjoining the boundary line.

[1917 c. 441 s. 20] (6925)

MINNESOTA STATUTES 1941

1011

DRAINAGE; IRRIGATION, OTHER PROVISIONS 113.18

113.18 PROCEEDINGS HERETOFORE COMMENCED TO BE COMPLETED UNDER PROVISIONS OF THEN EXISTING LAW. In all cases where a petition has been filed and proceedings have been instituted thereunder for the establishment of any drainage improvement under any drainage law of this state prior to the passage of this section, the proceedings may be completed under the provisions of law existing prior to the passage thereof, and the provisions of such law shall continue for the purpose of completing such unfinished proceedings, notwithstanding the amendments provided for in section 113.17.

[1917 c. 441 s. 21] (6926)