

CHAPTER 380

POWERS AND DUTIES OF COUNTY BOARD IN CERTAIN COUNTIES

<p>Sec. 380.01 Sewer systems in platted areas 380.02 Establishment 380.03 Work to be let 380.04 Assessments calculated without regard to cash valuation of property 380.05 Engineer's reports filed with county auditor 380.06 Supplemental assessments 380.07 Sewer fund provided; sewer warrants 380.08 Sewer warrants may be used to pay assessments 380.09 Property not to be conveyed until delinquent assessments paid 380.10 Assessments not invalidated by errors or omissions 380.11 Reassessments 380.12 Notice of county board meeting to specify sewer district 380.13 Appeals from assessments 380.14 Private connections with sewers</p>	<p>Sec. 380.15 Right of eminent domain may be exercised 380.16 Land purchased or condemned 380.17 Operation of system may be subject of contract with municipality 380.18 County board may accept federal grants or loans 380.19 St. Louis county to establish aviation field; bonds 380.20 Bonds; sale; levy 380.21 Lands condemned 380.22 Depository for proceeds of bonds 380.23 County lands used 380.24 Lands acquired for park and recreational purposes; appropriation 380.25 Lease of city and county offices 380.26 City reimbursed by county 380.27 Bonds to meet deficiency in operating expenses</p>
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380.01 SEWER SYSTEMS IN PLATTED AREAS. When a petition signed by 51 per cent of the freeholders in any platted area located in any county in this state, having an assessed valuation of more than \$200,000,000 and an area of more than 5,000 square miles, and not contained within the limits of any village or city, shall be filed with the auditor of such county, the board of county commissioners of such county may establish, construct, and maintain a sewer system or system of sewers in such platted area. The petition praying for the construction of such improvement may be in informal language and shall be filed with the auditor of such county. He shall compare the signatures thereon with the records in the office of the register of deeds and shall present such petition to the county board and report to it his findings as to the percentage of necessary freeholders who have signed the same. The board shall thereupon determine, by resolution, whether or not the petition has been signed by the required percentage of freeholders and its determination so made to the effect that the necessary percentage has signed such petition shall be final and conclusive unless reversed on appeal as hereinafter provided.

[1937 c. 214 s. 1] (669-19)

380.02 ESTABLISHMENT. On the presentation of such petition the county board, if it shall find that the required percentage of freeholders has signed the same, shall thereupon determine, by resolution, to establish, construct, and maintain any such sewer or sewer system, and the cost thereof shall be estimated by the county engineer or some other competent engineer to be selected by such board, who shall draw plans and specifications and tabulate the results of his estimate of the cost and report the same to the county board. Such plans and specifications shall be filed with the auditor of the county before any proposal for bids for work thereunder shall be advertised and shall remain on file, open to the inspection of all persons until after the contract for such work shall be let. Copies of such plans and specifications shall be furnished, by the engineer who shall prepare the originals, to any person applying therefor.

[1937 c. 214 s. 2] (669-20)

380.03 WORK TO BE LET. The county board shall then cause proposals for bids for such work to be advertised in the official newspaper of such county at least once in each week for two consecutive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for the work, and shall state the time within which bids will be received and the exact time within which the same shall be open for consideration by such county board. In letting contracts for any such work, it shall be the duty of the county board to require the execution of a written contract and a bond in such sum as the board may require, conditioned for the faithful performance of the contract and for saving the county harmless from any and all liability in the prosecution and

completing of the work. The county board, if a contract is awarded, shall award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and furnish such bond, then such defaulting bidder shall forfeit to the county the amount of his cash deposit or certified check, if any, and the board may thereupon award the contract to the next lowest responsible bidder. The board shall have the right to reject all bids. When the estimates made for the county board for the entire work project shall be less than \$1,000, the board may directly purchase the materials therefor and cause the work to be done by day labor. Every contract awarded under sections 380.01 to 380.18 shall be made between the county as one party, in the name of the county, and the successful bidder as the other party, and such contract shall be executed on the part of the county by the chairman of the county board and countersigned by the auditor of the county, and an attested copy thereof shall be filed and remain in his office.

[1937 c. 214 s. 3] (669-21)

380.04 ASSESSMENTS CALCULATED WITHOUT REGARD TO CASH VALUATION OF PROPERTY. When any work or improvement provided for by sections 380.01 to 380.18 shall have been determined upon and a contract let therefor, or outlet secured, the county engineer, or other competent engineer selected by the county board, shall forthwith calculate the proper amount to be specially assessed for such sewer or sewer system or outlet against every assessable lot, piece, or parcel of land within the sewer district or platted area affected, without regard to cash valuation.

[1937 c. 214 s. 4] (669-22)

380.05 ENGINEER'S REPORTS FILED WITH COUNTY AUDITOR. When such engineer shall have finished his calculations of the amount to be specially assessed, as aforesaid against such lot, piece, or parcel of land in the sewer district or platted area affected, he shall at once prepare and file with the auditor of such county tabulated statements, in duplicate, showing the proper description of each and every lot, piece, or parcel of land to be specially assessed and the amount he shall calculate against the same and such statement shall be the basis of the assessment and be known as the proposed assessment to be made by the county board, as hereinafter prescribed, and laid before the board for its approval at its next regular meeting or at a special meeting to be held not less than 20 days thereafter. The auditor shall thereupon cause notice of the time and place when and where the county board will meet in regular or special session to pass upon such proposed assessment to be published in the official newspaper of the county at least ten days prior to such meeting. During all the time between the filing of such proposed assessment with the auditor and such meeting of the county board such proposed assessment shall be open to inspection and copying by all persons interested.

At such meeting of the county board, all persons aggrieved by such proposed assessment may appear before the board and present their reasons why such proposed assessment or any particular item thereof shall not be adopted, and the board shall hear and pass upon all objections thereto, if any, and may alter or affirm and adopt such proposed assessment as may be deemed just in the premises, and upon the adoption by a resolution of such proposed assessment the same shall be certified by the auditor and filed in his office and constitute the special assessment. The amount assessed against each lot, piece, or parcel of land by such special assessment shall bear interest from the date of the adoption of such special assessment until the same shall have been paid, the rate of interest to be designated by a resolution of the county board at the time of the adoption of such special assessment but not to exceed six per cent per annum, and such special assessment, with the accruing interest thereon, shall be a paramount lien upon the property included therein from the time of the adoption of such assessment by the board and shall remain such lien until fully paid, and shall have precedence over all other liens except general taxes and, as to such, shall be concurrent and shall not be divested or impaired by any judicial sale and no mistake in the description of the property or in the name of the owner shall invalidate the lien.

The county board may, at any time, by resolution, direct the auditor to make up and file in his office a certified statement of all such unpaid assessments the amount of interest which will be due thereon on the first day of January of the following year, which statement shall also contain a description of the lands affected by the assessment. Such resolution shall also direct that such special assessment shall be

MINNESOTA STATUTES 1941

2667

POWERS AND DUTIES OF COUNTY BOARDS 380.08

payable in equal annual instalments not exceeding ten, payable on the first day of January of each year, each instalment to bear interest at the rate hereinbefore provided until fully paid; and such statement of the county auditor shall show the amount of each instalment, the date when it becomes due and the amount of interest to be paid thereon in each year. After the statement is made and filed in the office of the auditor it shall be his duty to extend upon the tax roll of each year the amount of such assessment or instalment thereof, as the case may be, and the amount of interest which will become due on the first day of January of the following year, as shown by the statement, against the different lots or parcels of land therein described, and such amounts when so extended each year shall be carried into the tax becoming due or payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of the state and county taxes, paid to the county treasurer and shall be set aside by him in a special fund to be used for the purpose of paying the cost of such sewer or sewer system or any bonds or other obligations issued for the purpose of paying such cost. Any person may pay any such assessment with accrued interest thereon after the same has been so extended upon the tax rolls by the auditor, provided the tax roll containing such assessment has not in due course been delivered to the county treasurer for collection, and, upon such payment, the auditor shall mark such assessment "paid" upon his roll, but after the roll has been delivered to the county treasurer for collection, the assessment must be paid to him, with the penalties allowed by law.

The same penalties and interest shall attach and be collected by the county treasurer on assessment as upon general taxes, which penalties and interest shall belong to the county.

[1937 c. 214 s. 5] (669-23)

380.06 SUPPLEMENTAL ASSESSMENTS. In case of omission, errors, or mistakes in making such assessments in respect to the total cost of such improvement, or otherwise, it shall be competent for the county board to provide for and make supplemental assessments to correct such omission, errors, or mistakes; and such supplemental assessments shall be a lien, as in case of the original assessment, drawing interest at the same rate to be payable and enforceable in the same manner as is herein provided with respect to the original assessment.

[1937 c. 214 s. 6] (669-24)

380.07 SEWER FUND PROVIDED; SEWER WARRANTS. All moneys collected or any such special assessments shall constitute a fund for the payment of the cost of the improvement in the district or platted area for which such assessment was made, and the same shall be credited to a sewer district fund under the designation: "Fund of Sewer District No." and in anticipation of the collection of such special assessment the county may issue warrants on such fund to be known as "sewer warrants," payable at such times and in such amounts as, in the judgment of the county board, the collection of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed six per cent per annum, payable annually, and may have coupons attached representing each year's interest. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the chairman of the county board and countersigned by the county auditor and be in denominations of not less than \$50.00 nor more than \$500.00. Such warrants may be used in making payments on contracts for the improvements or may be sold by the county for not less than par, or such sale may be made by popular subscriptions pursuant to the provisions of section 475.17, and the proceeds thereof used in paying for such improvement. It shall be the duty of the county treasurer on presentation to pay such warrants and interest coupons as they mature, out of the proper sewer district fund, and to cancel the same when paid. If any such warrants shall become due, or any interest shall become due on any such warrant when there are no funds to pay the same, the county board is hereby authorized to effect a temporary loan for the payment thereof.

[1937 c. 214 s. 7] (669-25)

380.08 SEWER WARRANTS MAY BE USED TO PAY ASSESSMENTS. Any matured sewer warrant or interest coupon may be used in payment of any such special assessment on any particular property situated within the district or platted

area for which such warrant or coupon shall have been issued; and the warrants and coupons so used shall be canceled and retired by the county treasurer.

[1937 c. 214 s. 8] (669-26)

380.09 PROPERTY NOT TO BE CONVEYED UNTIL DELINQUENT ASSESSMENTS PAID. No conveyance of any land upon which such special assessment, or portion thereof, is due and unpaid, shall be recorded until such delinquent assessment, or portion thereof, shall have been paid.

[1937 c. 214 s. 9] (669-27)

380.10 ASSESSMENTS NOT INVALIDATED BY ERRORS OR OMISSIONS. No error or omission which may be made in any of the proceedings of the county board or any officer of such county, in refusing to, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in sections 380.01 to 380.18 or in making any special assessment or in levying or collecting the same, shall invalidate such assessment; unless it shall appear that by reason of such error or omission substantial injury has been done to the party claiming to be aggrieved.

[1937 c. 214 s. 10] (669-28)

380.11 REASSESSMENTS. In all cases where any assessment, or any part thereof, as to any lot, or parcel of land assessed under any of the provisions of sections 380.01 to 380.18, or of any prior law, for any cause, whether jurisdictional or otherwise, shall be set aside or declared void by any court, the county board shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of such improvement to be made, whether such improvement was made under sections 380.01 to 380.18 or any prior laws, and such reassessment or new assessment shall be made, as nearly as may be, as herein provided for making the assessment therefor in the first instance. When the same shall have been made and confirmed by the county board it shall be enforced and collected in the same manner other assessments are enforced and collected under sections 380.01 to 380.18 and in all cases where judgments shall be refused or denied by any court for the collection and enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the lot or parcel may be reassessed or newly assessed from time to time, until each separate piece or parcel of land has paid its proportionate part of the costs and expenses of the improvement as near as may be.

[1937 c. 214 s. 11] (669-29)

380.12 NOTICE OF COUNTY BOARD MEETING TO SPECIFY SEWER DISTRICT. The notice of the time and place when and where the county board will meet in regular session to adopt any proposed assessment, under section 380.05 to be prepared by the auditor of such county and published, shall specify the particular sewer district or platted area in which the improvement is to be made and describe with all reasonable certainty the location, extent, and termini of the sewer or sewers to be laid, relaid, or extended; provided, that no omission or inaccuracy in such notice shall invalidate the notice or the assessment unless substantial injury shall be shown by the person claiming to be aggrieved thereby.

When the county board shall meet for the purpose of adopting any proposed assessment under the provisions of section 380.05 no grievance or objection thereto, or to any item therein, shall be heard by the board unless the party objecting or his duly authorized agent or attorney shall, on or before the date of such session of the board, file with the auditor for presentation to the board a complete written statement of the objection with specific reference to the matter or items called in question and to which objection is made.

[1937 c. 214 s. 12] (669-30)

380.13 APPEALS FROM ASSESSMENTS. Any person feeling himself aggrieved by such special assessment may, by notice in writing served upon the chairman of the county board and the auditor of such county, a copy whereof, with proof of service shall be filed in the office of the clerk of the district court of the proper county within 20 days after the adoption of such special assessment, appeal from such special assessment to the district court and such appeal shall be disposed of in a summary manner by the court. At the trial of such appeal no pleadings shall be required, but the party appealing shall, in his notice of appeal, specify and enumerate the particular grounds of his objection to such special assessment and shall not be entitled to have considered on such appeal any grounds of objections other than those specified in such notice, and no question shall be

tried on such appeal as to any fact which may have arisen or existed prior to the letting of the contract or contracts for the improvement. A copy of the assessment roll in question and of the resolution of the county board confirming or adopting the same, certified by the auditor of the county, or the originals thereof, shall be prima facie evidence of the facts therein stated or denoted, and that such assessment was regular, just, and made in conformity to law, and the judgment of the court on the determination of such appeal shall be final. Such appeal shall be entered and brought on for hearing and be governed by the same rules, so far as applicable, as in appeals from justices of the peace in civil actions, and like bonds shall be given to the county by the person appealing as are required in the appeals from justice of the peace in civil actions, but such bond shall, to render such appeal effective, be approved by the judge of such district court. No appeal to the district court shall be made, heard, or determined as to such special assessment, or any item therein, unless such objection shall have been, as specified in sections 380.01 to 380.18, previously presented to and passed upon by the county board.

[1937 c. 214 s. 13] (669-31)

380.14 PRIVATE CONNECTIONS WITH SEWERS. All private connections shall be made with lateral sewers, unless some insurmountable obstacle of a practical or scientific nature shall prevent, and no private connection with any sewer shall in any event be made without formal permission therefor granted by the county board and the making of all private connections with any sewer shall be subject to supervision and control by the county board; provided that such supervision and control may be delegated by such county board to the county engineer or other person to be selected by the county board at its discretion.

[1937 c. 214 s. 14] (669-32)

380.15 RIGHT OF EMINENT DOMAIN MAY BE EXERCISED. When it shall become necessary for the county to exercise the right of eminent domain for the purposes included within sections 380.01 to 380.18 all proceedings therein shall conform as near as may be to the provisions of chapter 117.

[1937 c. 214 s. 15] (669-33)

380.16 LAND PURCHASED OR CONDEMNED. When it shall be necessary in the judgment of the county board to lay and maintain any general, district, or lateral sewer in or through other than public lands the county may acquire the right thereto by purchase, or by condemnation, under the right of eminent domain.

[1937 c. 214 s. 16] (669-34)

380.17 OPERATION OF SYSTEM MAY BE SUBJECT OF CONTRACT WITH MUNICIPALITY. Any such county, through its county board, may contract with any municipality adjacent to such platted area for the maintenance of such sewers and the conveying, treatment, and disposal of the sewage or for connecting with the sewage system of such adjacent municipality. All expense in connection with maintenance, operation, and repair of such sewers or of relaying the same and all moneys paid for the treatment or disposal of sewage in connection therewith shall be assessed against the real property within the sewer district, or platted area affected and benefited thereby. Such assessment shall be made in the same manner as provided for the original assessment for the construction of such sewers hereunder and draw interest at the same rate and be payable and enforceable in the same way as provided in sections 380.01 to 380.18 with respect to such assessment.

[1937 c. 214 s. 17] (669-35)

380.18 COUNTY BOARD MAY ACCEPT FEDERAL GRANTS OR LOANS. The county board of any such county shall have power and is hereby authorized to accept from the federal government, or any federal agency, grants or loans in aid of the construction of any such sewer system; to make contracts and execute instruments containing such terms, provisions, and conditions as, in the discretion of the county board may be necessary, proper, or advisable for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to, or by virtue of, the Recovery Act or any other federal act supplemental or amendatory thereto; to make all other contracts and execute all instruments necessary, proper and advisable in and for the furtherance of any such sewer system and to carry out and perform the terms and conditions of all such contracts or instruments; and to subscribe to and comply with such federal acts and any rules and regulations made by any federal agency with regard to any grants or loans, or both, from any federal agency.

[1937 c. 214 s. 18] (669-36)

380.19 ST. LOUIS COUNTY TO ESTABLISH AVIATION FIELD; BONDS.

The board of county commissioners of any county of the state containing timber lands, cut over lands, or lands liable to be over run by fire, having an area of more than 5,000 square miles and a population of more than 200,000, is hereby authorized when it shall be so determined by a majority vote of those present at any lawful meeting of the board, without any further authority, to issue and sell the bonds of the county from time to time in such amounts as in its judgment may be necessary, but not exceeding in the aggregate the sum of \$100,000, for the purpose of acquiring, purchasing, constructing, and equipping sites and buildings for use as aviation fields for the housing, supply, repair, care, landing, and departure of aeroplanes, and the necessary drivers and mechanics therefor, engaged in fire patrol work.

[1923 c. 34 s. 1] (669-3)

380.20 BONDS; SALE; LEVY. Such county board may issue and sell the bonds of the county for the purposes specified in section 380.19, not exceeding the sum of \$100,000 in the aggregate par value of such bonds, and may issue and sell the same in such amounts and at such time or times and from time to time as it shall deem necessary. The bonds shall comply with the requirements of section 475.07, and each instalment of the same shall be issued and sold in the manner provided for in section 475.15, and the rate of interest shall, in no case exceed five per cent per annum payable annually or semiannually and such bonds shall not be sold at less than par. The board of county commissioners of any such county shall have power to levy, under the authority of sections 380.19 to 380.23, a tax on all the taxable property of the county sufficient to pay the interest thereon falling due from year to year and to create a sinking fund for the retirement of said bonds at maturity. The credit of the county shall be pledged to the payment of the principal and interest of such bonds.

[1923 c. 34 s. 2] (669-4)

380.21 LANDS CONDEMNED. Any county affected by sections 380.19 to 380.23 is hereby authorized to acquire lands for such purposes by the exercise of the power of eminent domain in the manner provided by chapter 117.

[1923 c. 34 s. 3] (669-5)

380.22 DEPOSITORY FOR PROCEEDS OF BONDS. The proceeds of the sale of such bonds shall be placed with the county treasurer of such county and used in accordance with and for the purposes described in sections 380.19 to 380.23 and for no other purposes.

[1923 c. 34 s. 4] (669-6)

380.23 COUNTY LANDS USED. The county board of any county affected by sections 380.19 to 380.23 is hereby authorized to set apart for the purposes specified in sections 380.19 to 380.23 any tract of land now owned or hereafter acquired by the county that will not be needed for the purposes for which acquired, or which may be used for the purposes herein specified without substantially interfering with the purposes for which the land was or may be acquired. The setting apart of any such tract of land for such purposes may be done by the county board of the county by resolution duly adopted determining the need of the land for such purposes and that the land may be used for such purposes without interfering with the purposes for which the land may have been so acquired by the county.

[1923 c. 34 s. 5] (669-7)

380.24 LANDS ACQUIRED FOR PARK AND RECREATIONAL PURPOSES; APPROPRIATION. The board of county commissioners of any county now or hereafter having a population of not less than 200,000, nor more than 300,000, and having an assessed valuation of not less than \$310,000,000 is hereby authorized and empowered to acquire by purchase, gift, or eminent domain any timber land suitable for park and recreational purposes lying adjacent to any public highway within the county for park purposes and to improve the same for such use and it is hereby authorized to appropriate and expend for such purpose annually a sum not exceeding \$5,000. Any such lands so acquired shall not extend beyond 200 feet from outer edge of the regular established highway right of way.

[1927 c. 348] (669-14)

380.25 LEASE OF CITY AND COUNTY OFFICES. Any county in this state which now has, or hereafter may have, a population of more than 225,000 and which, together with any city within such county, has a joint court-house and city hall, the expense of which is shared proportionately by such county and city, shall have the power and authority to rent or lease, together with such city, quarters for city and

MINNESOTA STATUTES 1941

2671

POWERS AND DUTIES OF COUNTY BOARDS 380.27

county offices outside of the court-house and city hall, and the rental charged for the quarters shall be paid by the county and city in the same proportion as the expenses of maintenance of the court-house and city hall are paid by the city and county. No rate more than \$1.50 per square foot per annum shall be paid or incurred, and for only such space actually used for office purposes, and no obligation for alterations, remodeling, or repairs shall under any circumstances be incurred.

[1925 c. 240 s. 1] (669-16)

380.26 CITY REIMBURSED BY COUNTY. Any such county is hereby authorized and empowered to reimburse any such city which has since January 1, 1925, rented or leased quarters for city and county offices outside of the court-house and city hall, to an amount equal to the county's proportionate share of such rent computed upon the same basis as the expense of maintenance of the joint court-house and city hall as apportioned between the county and city.

[1925 c. 240 s. 2] (669-17)

380.27 BONDS TO MEET DEFICIENCY IN OPERATING EXPENSES. The county board of any county now or hereafter having an assessed valuation of not less than \$2,500,000, nor more than \$3,500,000, and an area of not less than 15, nor more than 18, full or fractional congressional townships and which has levied the maximum tax authorized by law to be levied for county purposes and the revenue raised thereby is insufficient in any particular year to meet the necessary operating expenses of such county, may, by unanimous vote, authorize, by resolution, the issuance and sale, in such manner as it shall determine, of bonds to raise such additional amount as will provide sufficient funds to meet the necessary operating expenses of such county in such year, such bonds to be of such denominations, bear such rate of interest and mature at such time or times, not exceeding, however, ten years from date of issuance, as the county board shall by unanimous vote determine. The amount of bonds so issued by any such county in any year shall not exceed the sum of \$20,000.

[1927 c. 53] (669-18)