

Drainage and Waters

CHAPTER 105

DIVISION OF WATER RESOURCES AND ENGINEERING

105.01 DEFINITIONS.

HISTORY. 1907 c. 470 s. 19; G.S. 1913 s. 5498; G.S. 1923 s. 6652; M.S. 1927 s. 6652; 1941 c. 138.

105.02 TRANSFERRED POWERS AND AUTHORITY.

HISTORY. 1907 c. 470 s. 1; G.S. 1913 s. 5480; 1919 c. 471 s. 1; G.S. 1923 s. 6634; 1925 c. 426 art. 5 s. 1; M.S. 1927 ss. 53-24, 6634; 1943 c. 60 s. 12.

By Laws 1907, Chapter 470, the state auditor was made the secretary of the state drainage commission and paid at the rate of \$400.00 per year. Members of the legislature at the time of the passage of the act are not prohibited from becoming candidates for state auditor at the ensuing primary election. *Benson v Schmahl*, 125 M 104, 145 NW 794.

The several drainage statutes, including Laws 1905, Chapter 230, and Laws 1907, Chapter 470, and subsequent amendments thereof, all relating to one general subject, namely, the drainage of wet and overflowed agricultural lands, are in pari materia, and should be construed together as one law. *Wold v Bankers Surety*, 133 M 90, 157 NW 990.

105.04 POWERS OF DIRECTOR.

HISTORY. 1907 c. 470 s. 2; G.S. 1913 s. 5481; 1915 c. 273 s. 1; 1919 c. 471 s. 2; 1921 c. 327 s. 1; 1923 c. 328 s. 1; G.S. 1923 s. 6635; M.S. 1927 s. 6635; 1931 c. 350.

The conservation commissioner during drouth may cooperate with municipalities in the construction of dams and so operate them as to raise the water to ordinary high-water mark and relieve distress. OAG Aug. 14, 1934 (983d).

The rule laid down in *Sheehan v Flynn*, 59 M 436, 61 NW 462, that by reasonable drainage works on his own premises a landowner may dispose of surface water as best he can so long as he does not unreasonably injure his neighbor, applies only to private rights. It has no application to a public drainage proceeding wherein the statute requires compensation to all who suffer damage. In *re Town Ditch No. 1*, 208 M 566, 295 NW 47.

Special districts. 26 MLR 51.

105.05 ADDITIONAL POWERS OF COMMISSIONER.

HISTORY. 1907 c. 470; 1909 c. 207 s. 1; G.S. 1913 s. 5513; G.S. 1923 s. 6667; M.S. 1927 s. 6667.

105.06 POWERS OF COMMISSIONER AND PROCEDURE OF ENGINEERS.

HISTORY. 1917 c. 441 s. 1; G.S. 1923 s. 6635A; M.S. 1927 s. 6635A.

105.07 COMMISSIONER TO CAUSE EXAMINATIONS TO BE MADE / REPORT TO COURT WHEN REQUESTED.

HISTORY. 1917 c. 441 s. 2; G.S. 1923 s. 6635B; M.S. 1927 s. 6635B.

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105.08 RECORDS OF SURVEYS, DEPUTIES AND ASSISTANTS.

HISTORY. 1907 c. 470 s. 3; G.S. 1913 s. 5482; 1919 c. 471 s. 3; G.S. 1923 s. 6636; M.S. 1927 s. 6636.

105.09 TOPOGRAPHICAL SURVEY OF WATERSHEDS.

HISTORY. 1909 c. 471 s. 1; G.S. 1913 s. 5517; G.S. 1923 s. 6668; M.S. 1927 s. 6668.

105.10 MAPS, PLANS, REPORTS.

HISTORY. 1909 c. 471 ss. 2 to 4; G.S. 1913 ss. 5518 to 5520; G.S. 1923 ss. 6669 to 6671; M.S. 1927 ss. 6669 to 6671.

105.11 COMMISSIONER TO PRESCRIBE RULES.

HISTORY. 1909 c. 471 s. 5; G.S. 1913 s. 5521; G.S. 1923 s. 6672; M.S. 1927 s. 6672.

105.12 COOPERATION WITH UNITED STATES DEPARTMENT OF AGRICULTURE.

HISTORY. 1909 c. 471 s. 6; G.S. 1913 s. 5522; G.S. 1923 s. 6673; M.S. 1927 s. 6673.

105.13 PETITION TO DISTRICT COURT.

HISTORY. 1907 c. 470 s. 4; G.S. 1913 s. 5483; G.S. 1923 s. 6637; M.S. 1927 s. 6637.

A ditch which only avoids erosion to a highway is not a drainage project within the drainage statute. *Vivian v Dunbar*, 162 M. 491, 203 NW 431.

105.14 VIEWERS; DUTIES, REPORT.

HISTORY. 1907 c. 470 ss. 5, 6; G.S. 1913 ss. 5484, 5485; G.S. 1923 ss. 6638, 6639; M. S. 1927 ss. 6638, 6639.

105.15 PRIVATE DITCH; DEDUCTION FROM BENEFITS.

HISTORY. 1907 c. 470 s. 7; G.S. 1913 s. 5486; G.S. 1923 s. 6640; M.S. 1927 s. 6640.

105.16 WHAT LANDS ASSESSED; BENEFITS, HOW ESTIMATED.

HISTORY. 1907 c. 470 s. 8; G.S. 1913 s. 5487; G.S. 1923 s. 6641; M.S. 1927 s. 6641.

105.17 DAMAGES; REMEDY OF PARTY AGGRIEVED.

HISTORY. 1907 c. 470 s. 9; G.S. 1913 s. 5488; G.S. 1923 s. 6642; M.S. 1927 s. 6642.

105.18 VIEWERS' REPORT, WHEN FILED.

HISTORY. 1907 c. 470 s. 10; G.S. 1913 s. 5489; G.S. 1923 s. 6643; M.S. 1927 s. 6643.

105.19 ORDER FOR HEARING; NOTICE.

HISTORY. 1907 c. 470 s. 11; G.S. 1913 s. 5490; G.S. 1923 s. 6644; M.S. 1927 s. 6644.

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105.20 HEARING; FINDINGS, ORDER; RESUBMISSION TO VIEWERS; BENEFITS AND DAMAGES; REHEARING, WHERE ORDER SET ASIDE.

HISTORY. 1907 c. 470 s. 12; G.S. 1913 s. 5491; G.S. 1923 s. 6645; M.S. 1927 s. 6645.

Following *State v Watts*, 116 M 326, to the effect that a departure by the engineer in his report in drainage proceedings from the points of commencement and terminus of the proposed ditch, when found necessary to render effective and complete a proposed drain, is not fatal to the proceedings. *Boetcher v Nelson*, 137 M 265, 161 NW 714, 163 NW 510.

The question of the necessity and propriety of drainage projects is addressed to the judgment and discretion of the tribunal having jurisdiction of the matter whose conclusions may be disturbed only when the evidence furnishes no legal basis for the decision of such tribunal. *Boetcher v Nelson*, 137 M 265, 161 NW 714, 163 NW 510.

In the matter of judicial ditch No. 10, 156 M 392, 194 NW 875.

It does not matter that in managing the public objects of the act, private interests are advanced. Such a result is merely incidental and does not affect the validity of the law. In re Town Ditch No. 10, 208 M 566, 295 NW 47.

105.21 STATE LANDS.

HISTORY. 1907 c. 470 s. 13; G.S. 1913 s. 5492; G.S. 1923 s. 6646; M.S. 1927 s. 6646.

105.22 STATEMENT.

HISTORY. 1907 c. 470 s. 14; G.S. 1913 s. 5493; G.S. 1923 s. 6647; M.S. 1927 s. 6647.

105.23 RECORD OF STATEMENT; LIEN; FEES.

HISTORY. 1907 c. 470 s. 15; G.S. 1913 s. 5494; G.S. 1923 s. 6648; M.S. 1927 s. 6648.

105.24 JURY TRIAL.

HISTORY. 1907 c. 470 s. 16; G.S. 1913 s. 5495; G.S. 1923 s. 6649; M.S. 1927 s. 6649.

105.25 APPEAL; INCREASED COST, HOW PAID.

HISTORY. 1907 c. 470 s. 17; G.S. 1913 s. 5496; G.S. 1923 s. 6650; M.S. 1927 s. 6650.

105.26 CONTRACT, HOW LET; PAYMENT.

HISTORY. 1907 c. 470 s. 18; G.S. 1913 s. 5497; G.S. 1923 s. 6651; M.S. 1927 s. 6651.

105.27 SUPERVISION.

HISTORY. 1907 c. 470 s. 20; G.S. 1913 s. 5499; G.S. 1923 s. 6653; M.S. 1927 s. 6653.

105.28 AUTHORITY TO ENTER ON LAND.

HISTORY. 1907 c. 470 s. 21; G.S. 1913 s. 5500; G.S. 1923 s. 6654; M.S. 1927 s. 6654.

105.29 COOPERATION WITH COUNTY BOARD.

HISTORY. 1907 c. 470 s. 22; G.S. 1913 s. 5501; G.S. 1923 s. 6655; M.S. 1927 s. 6655.

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105.30 POWERS AND DUTIES OF COMMISSIONER.

HISTORY. 1907 c. 470 s. 26; G.S. 1913 s. 5505; G.S. 1923 s. 6659; M.S. 1927 s. 6659.

105.31 STATE DITCH; SURVEY, MAP, PROFILE.

HISTORY. 1907 c. 470 s. 27; G.S. 1913 s. 5506; G.S. 1923 s. 6660; M.S. 1927 s. 6660.

105.32 RIVERS AND WATERCOURSES; WIDENING, DEEPENING.

HISTORY. 1907 c. 470 s. 28; G.S. 1913 s. 5507; G.S. 1923 s. 6661; M.S. 1927 s. 6661.

105.33 ORDERS OF COURT; JURISDICTION.

HISTORY. 1907 c. 470 s. 29; G.S. 1913 s. 5508; G.S. 1923 s. 6662; M.S. 1927 s. 6662.

105.34 OBSTRUCTING COMMISSIONER; PENALTY.

HISTORY. 1907 c. 470 s. 30; G.S. 1913 s. 5509; G.S. 1923 s. 6663; M.S. 1927 s. 6663.

105.35 TRAVELING EXPENSES.

HISTORY. 1907 c. 470 s. 31; G. S. 1913 s. 6510; G.S. 1923 s. 6664; M.S. 1927 s. 6664.

105.36 EXPENSES; FEES.

HISTORY. 1907 c. 470 s. 32; G.S. 1913 s. 6511; G.S. 1923 s. 6665; M.S. 1927 s. 6665.