

## CHAPTER 111

## CONSERVANCY

**111.01 DEFINITIONS.**

HISTORY. Ex. 1919 c. 13 s. 1; 1921 c. 325 s. 1; 1923 c. 308 s. 1; G.S. 1923 s. 6798; M.S. 1927 s. 6798; 1935 c. 369 s. 1; M. Supp. s. 6602-11.

A county may raise the necessary funds to participate in a WPA project to restore the water level of Beaver Lake. OAG Nov. 20, 1937 (273a-23).

**111.02 DECLARATION; CITATION.**

HISTORY. Ex. 1919 c. 13 s. 1; 1921 c. 325 s. 1; 1923 c. 308 s. 1; G.S. 1923 s. 6798; M.S. 1927 s. 6798; 1945 c. 81 s. 1.

Legislative authority to provide for the drainage and reclamation of swamp lands for protection from floods may be exercised by the creation of local drainage districts, which districts may inaugurate and control systems of drainage and reclamation within their boundaries and assess the cost against the property bounded thereby. *Pennington County v Red Lake Drainage*, 154 M 442, 192 NW 184.

Controlled public utilities in Minnesota. 16 MLR 556.

**111.03 POWERS GRANTED TO COURTS.**

HISTORY. Ex. 1919 c. 13 s. 2; 1921 c. 325 s. 2; 1923 c. 308 s. 2; G.S. 1923 s. 6799; M.S. 1927 s. 6799; 1945 c. 81 s. 2.

**111.04 PETITION FOR ORGANIZATION OF DISTRICTS.**

HISTORY. Ex. 1919 c. 13 s. 3; 1921 c. 325 s. 3; 1923 c. 308 s. 3; G.S. 1923 s. 6800; M.S. 1927 s. 6800.

**111.05 SURETY BOND FOR EXPENSES.**

HISTORY. Ex. 1919 c. 13 s. 4; 1923 c. 308 s. 4; G.S. 1923 s. 6801; M.S. 1927 s. 6801.

**111.06 NOTICES AND HEARING BY COURT.**

HISTORY. Ex. 1919 c. 13 s. 5; 1923 c. 308 s. 5; G.S. 1923 s. 6802; M.S. 1927 s. 6802.

**111.07 FINDINGS OF COURT FILED; DISTRICT BOUNDARIES NAMED; OFFICE OF DISTRICT LOCATED.**

HISTORY. Ex. 1919 c. 13 s. 6; 1921 c. 325 s. 4; 1923 c. 308 s. 6; G.S. 1923 s. 6803; M.S. 1927 s. 6803.

**111.08 AUTHORITY OF BOARD.**

HISTORY. Ex. 1919 c. 13 s. 7; G.S. 1923 s. 6804; M.S. 1927 s. 6804; 1945 c. 81 s. 3.

**111.09 TREASURER AND CHIEF ENGINEER.**

HISTORY. Ex. 1919 c. 13 s. 8; G.S. 1923 s. 6805; M.S. 1927 s. 6805.

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 111.10 CONSERVANCY

662

### 111.10 TERMS OF OFFICE OF DIRECTORS.

HISTORY. Ex. 1919 c. 13 s. 9; G.S. 1923 s. 6806; M.S. 1927 s. 6806..

### 111.11 ESTABLISHMENT OF DISTRICT; CLASSES.

HISTORY. Ex. 1919 c. 13 s. 10; 1921 c. 325 s. 5; 1923 c. 308 s. 7; G.S. 1923 s. 6807; M.S. 1927 s. 6807.

### 111.12 REPORT OF BOARD AND ACTION BY COURTS.

HISTORY. Ex. 1919 c. 13 s. 11; 1923 c. 308 s. 8; G.S. 1923 s. 6808; M.S. 1927 s. 6808.

### 111.13 MODIFICATIONS, APPROVAL OR REJECTION.

HISTORY. Ex. 1919 c. 13 s. 12; 1921 c. 325 s. 6; 1923 c. 308 s. 9; G.S. 1923 s. 6809; M.S. 1927 s. 6809.

### 111.14 AWARDING OF CONTRACTS.

HISTORY. Ex. 1919 c. 13 s. 13; G.S. 1923 s. 6810; M.S. 1927 s. 6810.

### 111.15 RIGHT OF ENTRY.

HISTORY. Ex. 1919 c. 13 s. 14; G.S. 1923 s. 6811; M.S. 1927 s. 6811.

### 111.16 ORDERS AND DECREES FOR VARIOUS IMPROVEMENTS.

HISTORY. Ex. 1919 c. 13 s. 15; 1923 c. 308 s. 10; G.S. 1923 s. 6812; M.S. 1927 s. 6812.

### 111.17 BIDS AUTHORIZED.

HISTORY. Ex. 1919 c. 13 s. 16; G.S. 1923 s. 6813; M.S. 1927 s. 6813.

### 111.18 CREATION OF RESERVOIRS.

HISTORY. Ex. 1919 c. 13 s. 17; G.S. 1923 s. 6814; M.S. 1927 s. 6814.

### 111.19. REMOVAL OF BRIDGES.

HISTORY. Ex. 1919 c. 13 s. 18; G.S. 1923 s. 6815; M.S. 1927 s. 6815.

### 111.20 GAGES.

HISTORY. Ex. 1919 c. 13 s. 19; G.S. 1923 s. 6816; M.S. 1927 s. 6816.

### 111.21 CONTRACTS WITH UNITED STATES GOVERNMENT AND INDIVIDUALS.

HISTORY. Ex. 1919 c. 13 s. 20; 1921 c. 325 s. 7; G.S. 1923 s. 6817; M.S. 1927 s. 6817.

### 111.22 RIGHTS OF LANDOWNERS TO USE OF WATER.

HISTORY. Ex. 1919 c. 13 s. 21; 1921 c. 325 s. 8; G.S. 1923 s. 6818; M.S. 1927 s. 6818.

### 111.23 APPLICATIONS FOR USE OF WATER.

HISTORY. Ex. 1919 c. 13 s. 22; 1921 c. 325 s. 8½; G.S. 1923 s. 6819; M.S. 1927 s. 6819.

# MINNESOTA STATUTES 1945 ANNOTATIONS

663

CONSERVANCY 111.35

## 111.24 WHEN CONTRACTS MAY BE MADE.

HISTORY. Ex. 1919 c. 13 s. 23; G.S. 1923 s. 6820; M.S. 1927 s. 6820.

## 111.25 REGULATIONS, RATES.

HISTORY. Ex. 1919 c. 13 s. 24; G.S. 1923 s. 6821; M.S. 1927 s. 6821.

## 111.26 ASSESSMENTS FOR BENEFITS.

HISTORY. EX. 1919 c. 13 s. 25; 1921 c. 325 s. 9; G.S. 1923 s. 6822; M.S. 1927 s. 6822.

Creation of the assessment district; apportionment of the burden. 10 MLR 424.

## 111.27 VARIOUS FUNDS.

HISTORY. Ex. 1919 c. 13 s. 26; G.S. 1923 s. 6823; M.S. 1927 s. 6823.

## 111.28 PAYMENT OF EXPENSES.

HISTORY. Ex. 1919 c. 13 s. 27; G.S. 1923 s. 6824; M.S. 1927 s. 6824.

## 111.29 PRELIMINARY EXPENSE FUND ESTABLISHED.

HISTORY. Ex. 1919 c. 13 s. 28; 1921 c. 325 s. 10; G.S. 1923 s. 6825; M.S. 1927 s. 6825; 1945 c. 81 s. 4.

The delegation to drainage districts of the power to inaugurate and control systems of drainage and reclamation within their boundaries, and to assess the cost of the same against the property benefited, is valid. Pennington County v Red Lake Drainage, 154 M 442, 192 NW 184.

## 111.30 APPORTIONMENT OF COSTS.

HISTORY. Ex. 1919 c. 13 s. 29; 1921 c. 325 s. 11; G.S. 1923 s. 6826; M.S. 1927 s. 6826.

Where final order of the court establishing a judicial ditch has imposed assessment upon counties benefited, and assessments were wrongfully imposed upon the township, the latter may recover money paid to the state on account of such assessments. OAG April 10, 1937, (151a).

## 111.31 ASSESSMENTS.

HISTORY. Ex. 1919 c. 13 s. 30; 1921 c. 325 s. 12; G.S. 1923 s. 6827; M.S. 1927 s. 6827.

## 111.32 ISSUANCE OF ORDERS.

HISTORY. Ex. 1919 c. 13 s. 31; G.S. 1923 s. 6828; M.S. 1927 s. 6828.

## 111.33 UPKEEP AND REPAIR OF DISTRICT.

HISTORY. Ex. 1919 c. 13 s. 32; 1921 c. 325 s. 13; G.S. 1923 s. 6829; M.S. 1927 s. 6829.

## 111.34 WHEN REPAIRS ARE TO BE MADE.

HISTORY. Ex. 1919 c. 13 s. 33; G.S. 1923 s. 6830; M.S. 1927 s. 6830.

## 111.35 BOARD TO HAVE CONTROL OF ALL CONTRACTS.

HISTORY. Ex. 1919 c. 13 s. 34; G.S. 1923 s. 6831; M.S. 1927 s. 6831.

**111.36 NEGLECT OF AFFAIRS.**

HISTORY. Ex. 1919 c. 13 s. 35; G.S. 1923 s. 6832; M.S. 1927 s. 6832.

**111.37 REPORT OF DIRECTIONS.**

HISTORY. Ex. 1919 c. 13 s. 36; G.S. 1923 s. 6833; M.S. 1927 s. 6833.

**111.38 IMPROPER NOTICES.**

HISTORY. Ex. 1919 c. 13 s. 37; G.S. 1923 s. 6834; M.S. 1927 s. 6834.

**111.39 REFERENCE TO OTHER CHAPTERS.**

HISTORY. Ex. 1919 c. 13 s. 41; G.S. 1923 s. 6838; M.S. 1927 s. 6838.

**111.40 CONTINUATION.**

HISTORY. Ex. 1919 c. 13 s. 42; G.S. 1923 s. 6839; M.S. 1927 s. 6839.

**111.41 DISTRICTS ALREADY ESTABLISHED.**

HISTORY. Ex. 1919 c. 13 s. 43; G.S. 1923 s. 6840; M.S. 1927 s. 6840.

**111.42 MAY APPEAL TO SUPREME COURT.**

HISTORY. Ex. 1919 c. 13 s. 43B; 1921 c. 325 s. 15; G.S. 1923 s. 6840-B; M.S. 1927 s. 6840-B.

**111.43 WATER CONSERVATION; DECLARATION OF PURPOSE.**

HISTORY. 1937 c. 468 s. 1; M. Supp. s. 6602-51.

Where land is benefited and assessed for the establishment of a county ditch there comes into being a property right appurtenant to the land, not to be taken away or impaired except by due process; but these rights are limited under the drainage act and proceedings had thereunder to the benefits accruing within the stated purposes, and subsequent erosion of the lake outlet whereby the natural water level was much lowered is not a barrier against the state in now seeking restoration of the lake level to its natural and normal height. In re Lake Elysian, 208 M 158, 293 NW 140.

Joint consent of federal and state governments required to permit a change of the cross-section of a river. 1942 OAG 13, June 26, 1942 (370).

The state may appropriate without compensation to riparian owners. In the instant case a dam may be constructed to raise the waters of Prior Lake, even though it temporarily shuts off the water from a bay called Candy Cove. 1942 OAG 14, May 20, 1941 (211 D-19).

**111.44 COMMISSION TO MAKE INVESTIGATION.**

HISTORY. 1937 c. 468 s. 2; M. Supp. s. 6602-52.

The commissioner of conservation may delegate part of his duties and functions to the director of water resources and engineering. 1938 OAG 95, Aug. 3, 1938 (983d).

A riparian owner must obtain a permit in order to fill in the lake shore so as to extend his lake front property. OAG July 11, 1944 (983h).

**111.45 WATER CONSERVATION PROGRAM.**

HISTORY. 1937 c. 468 s. 3; M. Supp. s. 6602-53.

Powers of the commissioner of conservation relating to waters of Thief Lake conservation project, outlined. 1938 OAG 94, May 25, 1938 (273b).

# MINNESOTA STATUTES 1945 ANNOTATIONS

665

CONSERVANCY 111.56

Unauthorized drainage of meandered lakes is a violation of the statutes and may be the subject of inquiry and order by the commissioner of conservation. 1938 OAG 99, July 29, 1938 (273c-1).

Relating to the action of the county board of Kandiyohi county relating to Diamond Lake. 1940 OAG 173, Aug. 8, 1940 (273a-23).

## **111.46 MUST HAVE WRITTEN PERMISSION FROM COMMISSIONER.**

HISTORY. 1937 c. 468 s. 4; M. Supp. s. 6602-54.

## **111.47 PERMISSION NECESSARY TO BUILD DAMS.**

HISTORY. 1937 c. 468 s. 5; M. Supp. s. 6602-55; 1939 c. 125; 1943 c. 344 s. 1.

A bridge and its abutments are "waterway obstructions" within the meaning of Laws 1937, Chapter 468, for the construction of which, except for certain exceptions, municipalities are required to secure permits from the commissioner of conservation. 1938 OAG 96, Sept. 19, 1938 (148a-14).

Department control over Minnehaha creek. OAG Dec. 13, 1944 (983d).

## **111.48 APPLICATIONS.**

HISTORY. 1937 c. 468 s. 6; M. Supp. s. 6602-56.

## **111.49 PUBLIC HEARINGS UPON APPLICATION.**

HISTORY. 1937 c. 468 s. 7; M. Supp. s. 6602-57; 1939 c. 327 s. 1.

Where a bridge span has been washed out, the immediate restoration of a public highway for public use could constitute an emergency and the board of county commissioners authorized to act immediately and without an application being made or a hearing arranged for. 1938 OAG 121, Sept. 6, 1938 (642a-12).

## **111.50 ALL PAPERS FILED, OPEN FOR INSPECTION.**

HISTORY. 1939 c. 327 s. 2; M. Supp. s. 6602-57a.

## **111.51 SUMMONING OF WITNESSES; RECORD KEPT.**

HISTORY. 1939 c. 327 ss. 3, 4; M. Supp. ss. 6602-57b, 6602-57c.

## **111.52 OWNERS TO CAP ARTESIAN WELLS.**

HISTORY. 1939 c. 327 s. 5; M. Supp. s. 6602-57d.

## **111.53 EVIDENCE, INVESTIGATION.**

HISTORY. 1937 c. 468 s. 8; M. Supp. s. 6602-58.

If the improvement does not interfere with the public interest in any way, no hearing is required. OAG July 11, 1944 (983h).

## **111.54 DAMS AND RESERVOIRS EXAMINED.**

HISTORY. 1937 c. 468 s. 9; M. Supp. s. 6602-59.

## **111.55 MAY SET TIME LIMIT FOR BUILDING OR REBUILDING DAM.**

HISTORY. 1937 c. 468 s. 10; M. Supp. s. 6602-60.

## **111.56 RULES AND REGULATIONS.**

HISTORY. 1937 c. 468 s. 11; M. Supp. s. 6602-61.

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 111.57 CONSERVANCY

666

### **111.57 COMMISSIONER TO APPEAR FOR STATE IN FEDERAL HEARINGS.**

HISTORY. 1937 c. 468 s. 15; M. Supp. s. 6602-65.

### **111.58 DAMS TO BE MAINTAINED BY STATE.**

HISTORY. 1937 c. 468 s. 16; M. Supp. s. 6602-66; 1941 c. 88.

### **111.59 NOT TO AFFECT EXISTING CONTRACTS.**

HISTORY. 1937 c. 468 s. 17; M. Supp. s. 6602-67.

### **111.60 APPEALS.**

HISTORY. 1937 c. 468 s. 12; M. Supp. s. 6602-62; 1941 c. 86.

### **111.61 VIOLATION A GROSS MISDEMEANOR.**

HISTORY. 1937 c. 468 s. 13; M. Supp. s. 6602-63; 1941 c. 71.

### **111.62 MAY ENFORCE ORDERS OF COMMISSIONER.**

HISTORY. 1937 c. 468 s. 14; M. Supp. s. 6602-64.

### **111.63 APPLICATION.**

HISTORY. 1937 c. 468 s. 18; M. Supp. s. 6602-68.

### **111.64 COMMISSIONER MAY CONSTRUCT DAMS.**

HISTORY. 1935 c. 369 s. 2; M. Supp. s. 6602-12.

The state has no authority to concentrate waters of a public lake in an area smaller than its natural area, unless with the consent of the riparian owners or by condemnation proceedings. OAG Nov. 17, 1936 (273c-6).

### **111.65 OWNERS MAY INITIATE PROCEEDINGS.**

HISTORY. 1935 c. 369 s. 3; M. Supp. s. 6602-13.

The county board should not appropriate money to equip a pump until they have first passed a resolution to sustain the water level in the lake. The county board may act without consent of the commissioner of conservation. The county may accept donations. 1940 OAG 173, Aug. 8, 1940 (273a-23).

### **111.66 APPOINTMENT OF APPRAISERS.**

HISTORY. 1935 c. 369 s. 4; M. Supp. s. 6602-14.

### **111.67 DUTIES OF APPRAISERS.**

HISTORY. 1935 c. 369 s. 5; M. Supp. s. 6602-15.

### **111.68 TABULAR STATEMENTS.**

HISTORY. 1935 c. 369 s. 6; M. Supp. s. 6602-16.

### **111.69 FILING OF REPORT; COMPENSATION.**

HISTORY. 193 c. 369 s. 7; M. Supp. s. 6602-17.

### **111.70 HEARINGS.**

HISTORY. 1935 c. 369 s. 8; M. Supp. s. 6602-18.

**111.71 CONFIRMATION OF ASSESSMENTS.**

HISTORY. 1935 c. 369 s. 9; M. Supp. s. 6602-19.

**111.72 JUDGE MAY MAKE ORDERS.**

HISTORY. 1935 c. 369 s. 10; M. Supp. s. 6602-20.

**111.73 MAY DEMAND JURY TRIALS.**

HISTORY. 1935 c. 369 s. 11; M. Supp. 6602-21.

**111.74 CONSTRUCTION; CONTRACTS.**

HISTORY. 1935 c. 369 s. 13; M. Supp. s. 6602-03.

**111.75 WORK TO BE SUPERVISED BY ENGINEER.**

History. 1935 c. 369 s. 14; M. Supp. s. 6602-24.

**111.76 AUDITORS TO PREPARE TABULAR STATEMENTS.**

HISTORY. 1935 c. 369 s. 15; M. Supp. s. 6602-25.

**111.77 BENEFITS TO BE PARAMOUNT LIEN.**

HISTORY. 1935 c. 369 s. 16; M. Supp. s. 6602-26.

**111.78 LIENS TO BEAR INTEREST.**

HISTORY. 1935 c. 369 s. 17; M. Supp. s. 6602-27.

**111.79 STATE NOT LIABLE; COUNTY BOARDS MAY APPROPRIATE.**

HISTORY. 1935 c. 369 s. 18; M. Supp. s. 6602-28; 1937 c. 96 s. 1; 1937 c. 162 s. 1.

There is no liability for damages to riparian owners so long as the water level is not raised above natural high-water mark. OAG Sept. 13, 1938 (273a-14).

The authority of the county is not limited to \$300.00 when it proposes in a Works Progress Administration project to purchase materials, the object being to restore lake levels. OAK Nov. 22, 1937 (273a-23).

Money may be transferred from the tax-forfeited land fund to the road and bridge fund. 1942 OAG 132, June 6, 1942 (442a-23).

**111.80 APPLICATION.**

HISTORY. 1935 c. 369 s. 19; M. Supp. s. 6602-29.

The use by a golf club of water from a lake to keep its grounds in good condition is not a commercial or artificial purpose and is not unlawful or unreasonable. Meyers v. Lafayette Club, Inc. 197 M 241, 266 NW 861.

What can a riparian proprietor do. 21 MLR 112.