

106.661 ABANDONMENT

HISTORY. 1947 c 143 s 66.

NOTE: Section 106.661 is new.

A drainage system is a unit and branches and laterals are merely parts of units and cannot by themselves be abandoned. The law relates to the entire system. The statute provides a method of abandonment but the authority to abandon relates to the entire ditch, and any abandonment of the whole or any part of the ditch must be under the procedure defined by the statute. OAG Oct. 27, 1949 (602-I).

On August 1, 1944, the county board established a ditch, one of the parties benefited being the village of Bellevue. The county called for bids in 1944 and again in 1945, but no contract was let. The village later contracted with another ditch enterprise for an outlet.

Failure of the county board to let a contract for construction of the ditch does not constitute abatement of the proceedings. The viewers' determination of benefits to the village still holds, and the fact that the village has availed itself of drainage into another drainage system does not relieve the village of liability to the original ditch enterprise. OAG June 28, 1950 (602-E).

A public drainage ditch may be abandoned through proceedings instituted under section 106.661, and upon a finding based upon the essential facts that the ditch is no longer a public benefit or utility. OAG Sept. 14, 1950 (602).

Ditch plans and ditches may be abandoned. No statutory provision exists for disposition of the money remaining in the ditch fund of an abandoned ditch. Funds derived from assessments or proceeds from both issues are trust funds. OAG July 22, 1952 (602-F).

There is no statute permitting an official change of an existing ditch by which its original outlet is abandoned and replaced by emptying the water of the ditch through a designated manhole; but that part of the ditch may be abandoned and the same end reached through proceedings under section 106.661. OAG Nov. 16, 1953 (602).

CHAPTER 107

LIENS, BONDS REFUNDING

107.01-107.19 Repealed, 1947 c 143 s 67.

CHAPTER 108

COUNTY, JUDICIAL

108.01-108.35 Repealed, 1947 c 143 s 67.