

CHAPTER 378. BODIES OF WATER

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378.31 Water and related land resources management

Subdivision 1. In order to preserve and protect the lakes of the state of Minnesota and to increase and enhance the use and enjoyment of these lakes it is in the public interest that there is established a statewide lake improvement program to: preserve the natural character of lakes and their shoreland environment as feasible and practical; improve the quality of water in lakes; provide for reasonable assurance of water quantity in lakes, where feasible and practicable; and to assure protection of the lakes from the detrimental effects of man's activities and certain natural processes which are detrimental to protection of the lakes.

Subd. 2. The county board of every county shall have the powers set forth in this section with respect to any bodies of water situated wholly or partly within the boundaries of the county and not situated entirely within the boundaries of a single city, village, or borough. All programs undertaken pursuant to such powers shall be consistent with the statewide water and related land resources plan prepared under the direction of the commissioner of natural resources, and with regional water and related resources plans. No body of water shall be improved under this section unless the public has access to some portion of the shoreline thereof. The county boards shall have power:

Subd. 3. To acquire, in the name of the county, by gift or purchase or by condemnation under chapter 117, any existing dam or control works that may affect the level of such waters;

Subd. 4. To construct and operate water control structures when approved by the commissioner of natural resources pursuant to section 105.42;

Subd. 5. To undertake projects to change the course current or cross section of public waters when approved by the commissioner of natural resources pursuant to section 105.42;

Subd. 6. To contract with a board of managers of any watershed district within the county or the board of supervisors of any soil and water conservation district within the county for improvements under chapters 40 and 112;

Subd. 7. To undertake research to determine the condition and development of the body of water and the water entering it and to transmit these studies to the pollution control agency and other interested authorities; to develop a comprehensive plan to eliminate water pollution; to conduct a program of water improvement and conservation; and to implement the comprehensive plan to eliminate water pollution, provided that construction of any water, sewer, or water and sewer system shall be undertaken in the manner provided by section 444.075 or other applicable laws and not pursuant to this section;

Subd. 8. To receive financial assistance from and join in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and demonstration programs related to them;

Subd. 9. To maintain public beaches, public docks and other public facilities for access to the body of water;

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Subd. 10. To make cooperative agreements with the United States or state government or any other county or city, village or borough for the purpose of effecting the provisions of this section ;

Subd. 11. To require that any projects to change the course, current or cross section of public waters within unincorporated areas be approved by the county before submitting an application for a permit to the commissioner as required by section 105.42.

[1973 c 702 s 4]

378.32 Water surface use regulation

Subdivision 1. The county board of every county may by ordinance regulate the surface use of any bodies of water situated wholly or partly within the boundaries of the county and not situated entirely within the boundaries of a single city, village, or borough, except that where a body of water lies in more than one county no such ordinance shall be effective until adopted by the county boards of all the counties in which the body of water lies pursuant to section 471.59 or placed into effect by order of the commissioner of natural resources pursuant to section 361.26. The regulation by the county of the surface use of any portion of a body of water situated within the boundaries of a city, village, or borough, shall be consistent with any regulation existing on May 25, 1973 of the surface use of that portion of the body of water, by the city, village, or borough. After January 1, 1975, any such ordinance shall be consistent with the provisions of chapter 361 and rules and regulations of the commissioner promulgated pursuant to section 361.25. Any surface use zoning ordinances adopted pursuant to this section by a local governmental unit subsequent to May 25, 1973 is invalid unless it is approved by the commissioner. Proposed surface use zoning ordinances shall be submitted to the commissioner for his review and approval prior to adoption. The commissioner shall approve or disapprove the proposed ordinance within 120 days after receiving it. If the commissioner disapproves the proposed ordinance, he shall return it to the local governmental unit with a written statement of his reasons for disapproval. The county board shall have power:

Subd. 2. To regulate and police public beaches, public docks and other public facilities for access to the body of water, except that a county board may not regulate state accesses and a municipality may by ordinance forbid the exercise of this power within its jurisdiction ;

Subd. 3. To regulate the construction, configuration, size, location and maintenance of commercial marinas and their related facilities including parking areas and sanitary facilities. The regulation shall be consistent with state law and the regulations of the department of natural resources, the pollution control agency, and the department of health, and with the applicable municipal building codes and zoning ordinances where the marinas are situated ;

Subd. 4. To regulate the construction, installation and maintenance of permanent and temporary docks and moorings consistent with state and federal law and sections 105.42, 361.07 and 361.21 ;

Subd. 5. To regulate the construction and use of mechanical and chemical means of deicing the body of water and to regulate the mechanical and chemical means of removal of weeds and algae from the body of water consistent with the regulations of the department of natural resources ;

Subd. 6. To regulate the type and size of watercraft, as defined in section 361.02, subdivision 7, permitted to use the body of water and set access fees ;

Subd. 7. To limit the types and horsepower of motors used on the body of water ;

Subd. 8. To limit the use of the body of water at various times and the use of various parts of the body of water ;

Subd. 9. To regulate the speed of watercraft on the body of water and the conduct of other activities on the body of water to secure the safety of the public and the most general public use;

Subd. 10. To contract with other law enforcement agencies to police the body of water and its shore.

[1973 c 702 s 5]

378.33 Advisory assistance

The county board, in connection with water use regulation and improvement, may invite any municipal council or town board or the soil and water conservation district board of supervisors or watershed district board of managers to designate a representative to advise and consult with the county board.

[1973 c 702 s 6]

378.34 Tax levies

The county board may levy taxes in order to implement the powers granted under Laws 1973, Chapter 702 upon all taxable property within the county, which may be in addition to any amounts levied within a lake improvement district.

[1973 c 702 s 7]

378.35 Appropriations; grants

Subdivision 1. The county board is authorized to appropriate money from the general revenue fund of the county for the purpose of carrying out the provisions of sections 378.31 to 378.35 and 378.41 to 378.56.

Subd. 2. The county board may apply for, receive, and disburse federal funds made available to the county by federal law or rules promulgated thereunder for any purpose related to the powers and duties of the county board. The county board shall comply with any and all requirements of federal law or rules and regulations promulgated thereunder in order to apply for, receive, and disburse the funds. The county board is authorized to accept any donations or grants from any public or private concern. All such moneys received by the county board shall be deposited in the county treasury and shall be appropriated for the purposes for which they are received.

[1973 c 702 s 8]

378.41 Establishment of lake improvement districts

Subdivision 1. In furtherance of the policy declared in section 378.31, the commissioner of natural resources shall coordinate and supervise a local-state program for the establishment of lake improvement districts by counties, cities and villages for lakes located within their boundaries based on state guidelines and regulations and compatible with all state, regional, and local plans where such plans exist.

In administration of this program the commissioner of natural resources shall consult with and obtain advice from other state agencies on those aspects of the program for which the agencies have specific legislative authority including but not limited to the department of health and the pollution control agency.

Subd. 2. The commissioner of natural resources, on or before July 1, 1974, shall promulgate in the manner provided by chapter 15, rules and regulations which provide guidelines, criteria and standards for establishment of lake improvement districts by counties, cities and villages.

Subd. 3. In order to finance the development and implementation of programs for water and related land resources management pursuant to sections 378.31 to 378.32, the county board of any county may designate areas within the county, including bodies of water and related land areas, as lake improvement districts.

[1973 c 702 s 9]

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378.42 Creation by county board

Subdivision 1. The county board may establish a lake improvement district in a portion of the county by adoption of an appropriate resolution. The resolution shall specify the territorial boundaries of the area, which shall be consistent with natural hydrologic boundaries, the type or types of water and related land resource management programs to be undertaken in the area, a statement of the means by which the programs will be financed, and a designation of the county officer or agency who will be responsible for supervising the programs. Nothing in Laws 1973, Chapter 702 shall be construed to prohibit any county from establishing a lake improvement district after May 25, 1973 provided that after July 1, 1974, any established lake improvement district shall be consistent with the rules and regulations promulgated under section 378.41.

Subd. 2. Before the adoption of such a resolution, the county board shall hold a public hearing on the question of whether or not a lake improvement district shall be established.

[1973 c 702 s 10]

378.43 Petition for creation

Subdivision 1. A petition signed by five percent of the qualified voters within any portion of the proposed lake improvement district as specified in the petition may be submitted to the county board requesting the establishment of a lake improvement district to develop and provide a program of water and related land resources management. The petition shall specify the territorial boundaries of the area, which shall be consistent with natural hydrologic boundaries, the type or types of water and related land resource management programs to be undertaken in the area, a statement of the means by which the programs will be financed, and a designation of the county officer or agency who will be responsible for supervising the programs.

Subd. 2. Upon receipt of the petition, and verification of the signatures thereon by the county auditor, the county board shall, within 30 days following verification, hold a public hearing on the question of whether or not the requested lake improvement district shall be established.

Subd. 3. Within 30 days following the holding of a public hearing the county board by resolution shall approve or disapprove the establishment of the requested lake improvement district. A resolution approving the creation of the lake improvement district may contain modifications of the area's boundaries, functions, financing, or organization from what was set forth in the petition.

[1973 c 702 s 11]

378.44 Joint action

Where the natural hydrologic boundaries of an area extend into more than one county, the county boards of the counties affected may establish and maintain a lake improvement district jointly or cooperatively as provided in section 471.59, either on their own motion or pursuant to petition.

[1973 c 702 s 12]

378.45 Creation by commissioner of natural resources

Subdivision 1. Where the county board of one or more of the counties affected has disapproved a petition for creation of a lake improvement district for the area, a petition for creation of a lake improvement district containing information of the kind required by section 378.43 may be submitted to the commissioner of natural resources.

Subd. 2. Upon receipt of the petition by the commissioner and verification of the signatures thereon by the county, the commissioner may, within 30 days following verification, hold a public hearing at the expense of the county board on the question of whether or not the requested lake improvement

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district shall be established. The commissioner, in determining whether or not to hold a public hearing, shall examine all facts relating to the petition, including the reasons why the petition was disapproved by the county.

Subd. 3. Within 30 days following the receipt of verification by the county if no hearing is to be held or within 30 days following the holding of a public hearing the commissioner by order shall approve or disapprove the establishment of the requested lake improvement district. If the commissioner determines that the establishment of the lake improvement district as requested in the petition would be for the public welfare and public interest, and that the purposes of section 378.41 would be served by the establishment of a lake improvement district, the commissioner shall by order approve the creation of the lake improvement district; otherwise, he shall by order disapprove the creation. An order approving creation may contain modifications of the area's boundaries, functions, financing, or organization from what was set forth in the petition.

[1973 c 702 s 13]

378.46 Publication and effective date

Upon passage of a county board resolution or commissioner's order authorizing the creation of a lake improvement district, the county board or boards shall cause the resolution or order to be published once in the official newspapers. The lake improvement district shall be deemed established 30 days after publication or at such later date as may be specified in the resolution or order.

[1973 c 702 s 14]

378.47 Referendum

Subdivision 1. Upon receipt of a petition signed by five percent of the qualified voters within the territory of the lake improvement district prior to the effective date of its creation as specified in section 378.46, the county board or boards shall hold the creation in abeyance pending referendum vote of all qualified electors residing within the boundaries of the proposed lake improvement district.

Subd. 2. The county board or boards shall make arrangements for the holding of a special election not less than 30 nor more than 90 days after receipt of such petition within the boundaries of the proposed lake improvement district. If a general election will be held within the time specified, the vote on creation may be held as part of the general election. The county auditor shall administer the election. The question to be submitted and voted upon by the qualified voters within the territory of the proposed lake improvement district shall be phrased substantially as follows:

"Shall a lake improvement district be established in order to provide (water and related land resources improvements) financed by (revenue sources)?"

Upon certification of the vote by the county auditor, if a majority of those voting on the question favor creation of the proposed lake improvement district the lake improvement district shall be deemed created.

[1973 c 702 s 15]

378.51 Board of directors

Subdivision 1. After creation of a lake improvement district, the county board or boards may appoint persons to serve as a board of directors for the lake improvement district. The number, qualifications, terms of office, removal, and filling of vacancies of directors shall be as provided in the resolution creating the board of directors.

Subd. 2. The directors shall serve without compensation but may be reimbursed for their actual expenses necessarily incurred in the performance of their duties in the manner provided for county employees.

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Subd. 3. When directed by resolution of the county board or boards creating it, the board of directors shall have, exercise, and perform the powers and duties of the county board under section 378.31, except the power to acquire property by eminent domain.

[1973 c 702 s 16]

378.52 Financing

Subdivision 1. The county board or boards in order to accomplish the purposes specified in the resolution or order creating a lake improvement district, may impose service charges on the users of such services within the area and may levy an ad valorem tax solely on property situated within the lake improvement district, to be appropriated and expended solely on projects of special benefit to the area, or any combination of service charges and taxes.

Subd. 2. The tax provided for by subdivision 1 shall not be subject to any statutory limitation as to amount and shall not affect the amount or rate of taxes that may be levied for other county purposes. Such a tax may be in addition to any amounts levied upon all taxable property in the county for the same or similar purposes.

Subd. 3. Upon adoption of its annual budget, the county board or boards shall include appropriate provisions for the operation of the lake improvement district.

[1973 c 702 s 17]

378.53 Voting

Where a lake improvement district has been established by order of the commissioner of natural resources under section 378.45, voting by county boards on joint actions of the lake improvement district shall be based on proportional representation for each county according to the proportion of the population of the lake improvement district residing within each county, and not on the basis of one vote per county or one vote per county board member unless each county or each board member represents substantially the same number of persons residing within the lake improvement district.

[1973 c 702 s 18]

378.54 Enforcement of ordinances

Where a lake improvement district has been established by order of the commissioner of natural resources under section 378.45, ordinances and regulations adopted by joint action of the affected county boards may be enforced in any part of the lake improvement district by personnel of any of the affected counties.

[1973 c 702 s 19]

378.55 Expansion of the boundaries of a lake improvement district

A county board, on its own motion or pursuant to petition, may enlarge any existing lake improvement district pursuant to the procedures specified in sections 378.41 to 378.47. In the event a referendum is required, only qualified voters residing in the area to be added shall be eligible to participate in the election; provided that if five percent of the qualified voters residing in the existing lake improvement district petition to participate therein, all qualified voters residing in the proposed lake improvement district shall be eligible.

[1973 c 702 s 20]

378.56 Termination

Subdivision 1. Upon receipt of a petition signed by ten percent of the qualified voters within the territory of the lake improvement district requesting the termination of the lake improvement district, or pursuant to its own resolution, the county board or boards shall make arrangements for the hold-

ing of a special election within the lake improvement district not less than 30 nor more than 90 days after receipt of such a petition. If a general election will be held within the time specified, the vote on termination may be held as part of the general election. The county auditor shall administer the election. The question to be submitted and voted upon by the qualified voters within the lake improvement district shall be phrased substantially as follows:

"Shall the lake improvement district heretofore established be terminated and the undertaking of additional water and related land resource improvements of the county as provided for within such lake improvement district be discontinued?"

Subd. 2. Upon certification of the vote by the county auditor, if a majority of those voting on the question favor the termination the lake improvement district shall be terminated. No additional water and related land resource management programs shall be undertaken with money raised by a special tax within the district, and no additional special water and related land resource management taxes shall be levied within the district. When money raised by past special tax levies within the district has been exhausted, further operation and maintenance of existing programs may be financed by appropriations from the general revenue fund of the county.

[1973 c 702 s 21]

CHAPTER 381. SURVEYS, SECTION CORNERS, TOWNSHIP LANDMARKS

Sec.
381.12 Section corners relocated.

381.12 Section corners relocated

[For text of subd. 1, see M.S.1971]

Subd. 2. **Expense, tax levy.** For the purpose of defraying the expense incurred, or to be incurred in the relocation and reestablishment of monuments pursuant to Minnesota Statutes 1949, Section 381.12, the county board of any county may levy a tax upon all the taxable property in the county.

[1973 c 583 s 28]

CHAPTER 382. COUNTY OFFICERS

Sec.
382.09 Repealed.
382.10 Bonds recorded.

Sec.
382.11 Repealed.
382.12 Bonds not withdrawn.

382.09 [Repealed, 1973 c 524 s 16]

382.10 Bonds recorded

Official bonds of county officers when approved by the county board, and their oaths of office and the bonds and oaths of their deputies, except register of deeds, shall be filed and recorded in the office of the register of deeds.

[1973 c 524 s 2]

382.11 [Repealed, 1973 c 524 s 16]

382.12 Bonds not withdrawn

No bond filed with the secretary of state shall be removed except upon the written order of a judge of a court of record before whom an action is pending to enforce the conditions thereof.

[1973 c 524 s 3]