

DRAINAGE 106.371

reconstructed or a grant be made to a local governmental unit where he determines that an emergency condition exists and that there is danger that life will be lost or that substantial property losses will be suffered if such action is not promptly taken.

[For text of subd 6, see M.S.1976]

[1977 c 446 s 15,16]

CHAPTER 106. DRAINAGE

Sec.	Sec.
106.015 Drainage system in two or more counties.	106.465 Redetermination of benefits. [New]
106.371 Payment of liens; interest.	106.471 Repairs.
106.411 Bond issues.	106.673 Ditches, planting with permanent grass.

106.015 Drainage system in two or more counties.

[For text of subds 1 to 4, see M.S.1976]

Subd. 5. Any judicial ditch or judicial drainage system in existence on June 30, 1977, is a joint county ditch or drainage system. Any judicial ditch proceeding pending on June 30, 1977, shall be continued as a judicial ditch proceeding to conclusion but thereafter the ditch or drainage system involved shall be a joint county ditch or drainage system. The files and records of a judicial ditch or judicial drainage system that becomes a joint county ditch or drainage system shall be transferred from the clerk of the district court to the county auditor of the county containing the largest area of land over which the ditch passes. Thereafter, the county boards of the respective counties shall proceed to appoint members of the respective boards as an administrative authority as provided in subdivision 2. The ditch authority shall have the same powers as provided in subdivision 3 and the county boards of the respective counties shall have the same duties and powers as provided in subdivision 4.

[For text of subd 6, see M.S.1976]

[1977 c 135 s 1]

106.371 . Payment of liens; interest.

[For text of subd 1, see M.S.1976]

Subd. 2. The principal of the lien shall bear interest at a rate to be fixed by the board, not to exceed seven percent per annum from the date of the filing of the lien statement in the office of the county recorder. All interest shall constitute an additional lien on all lands and properties until fully paid and shall be due and payable as follows:

Subsequent to November 1 of each year, after the filing of the lien statement until the whole amount of the lien and interest is paid, and before the tax lists for such year are turned over to the county treasurer, the auditor shall compute the interest on the unpaid balance of the lien at the rate fixed by the board, and enter such interest, together with the instalment, if any then due, on the tax lists for the year. Such amount, instalment and interest, shall be collected in the same manner as real estate taxes for that year on the property in question are collected, collecting one-half of the total of such instalment and interest with and as a part of the real estate taxes on or before May 31 and one-half on or before October 31 of the succeeding year. The amount of interest to be entered shall be reckoned from the date of filing the lien to August 15 of the succeeding calendar year and thereafter from August 15 to August 15 of each succeeding year on the whole of the principal of the lien remaining from time to time unpaid. Interest on any lien may be paid at

106.371 DRAINAGE

any time computed to the date of payment except that after the annual interest shall have been entered on the tax lists for the year, it shall be paid as entered without abatement for prepayment.

[For text of subd 3, see M.S.1976]

Subd. 4. All provisions of law now or hereafter existing relating to the collection of real estate taxes, so far as applicable hereto, are hereby adopted for the purpose of enforcing payment of such liens and instalments thereof and of the interest thereon, but in case of default, no penalty shall be added to any such instalment of principal and interest but each defaulted payment, principal and interest, shall draw interest from the date of default until paid at seven percent per annum.

[1977 c 135 s 2,3]

106.411 Bond issues.

[For text of subds 1 and 2, see M.S.1976]

Subd. 3. Such bonds shall be payable at such time or times, not to exceed 23 years from their date, and bear such rate or rates of interest, the net average rate of interest over the term of the bonds not to exceed seven percent per annum, payable annually or semi-annually as the county board shall by resolution determine. The years and amounts of principal maturities shall be such as in the opinion of the county board are warranted by the anticipated collections of the ditch assessments, without regard to any limitations on such maturities imposed by section 475.54.

Subd. 4. Instead of bonds maturing as provided in subdivision 3 above, the county board may in its discretion issue and sell temporary bonds maturing not more than two years from their date of issue, which bonds and interest thereon the county shall be obligated to pay out of the proceeds of definitive ditch bonds which the county board shall issue and sell prior to the maturity of the temporary bonds, to the extent that the same cannot be paid out of assessments theretofore collected or any other funds determined to be available. The holders of such temporary bonds, and the taxpayers of the county, shall have and may enforce, by mandamus or other appropriate proceedings, all rights respecting the levy and collection of sufficient assessments to pay the cost of ditch construction financed thereby which are granted by law to holders of other ditch bonds, except the right to require such levies to be collected prior to the maturity of the temporary bonds, and shall have the additional right to require the offering of such definitive bonds for sale or, if such bonds have not been sold and delivered prior to the maturity of the temporary bonds, to require the issuance of bonds in exchange therefor, on a par for par basis, bearing interest at the rate of seven percent per annum. The bonds so issued in exchange for any issue of temporary ditch bonds shall be numbered and shall mature serially at such times and in such amounts that the principal and interest can be paid when due by the collection of assessments levied for the ditches financed by the temporary bond issue, and shall be subject to redemption and prepayment on any interest payment date, upon 30 days' notice mailed to each holder thereof who has registered his name and address with the county treasurer; and such bonds shall be delivered in order of their serial numbers, lowest numbers first, to the holders of the temporary bonds in order of the serial numbers of the bonds held by them. Any funds of the issuing county may be invested in temporary ditch bonds in accordance with the provisions of sections 471.56 and 475.66, except that such temporary bonds may be purchased by the county upon their initial issue, and they shall be purchased only out of funds which the county board determines will not be required for other purposes prior to their maturity, and shall be resold prior to maturity only in case of unforeseen emergency. When such purchase is made out of the moneys held in a sinking fund for other bonds of the county, the holders of such other bonds shall have the right to enforce the county's obligation to sell definitive bonds at or before the maturity of the temporary bonds, or to exchange

DRAINAGE 106.471

the same, in the same manner as holders of such temporary bonds.

[For text of subds 5 and 6, see M.S.1976]

Subd. 7. The board may pay drainage bonds issued under the provisions of this chapter out of any available funds in the county treasury when the moneys on hand in the common ditch bond redemption fund or in the ditch fund on account of which the bonds were issued are insufficient therefor; but the funds from which said moneys have been taken shall be replenished with interest for the time actually needed at the rate of seven percent per annum from assessments on such ditch or from the sale of funding bonds as hereinafter provided.

[For text of subds 8 and 9, see M.S.1976]

[1977 c 135 s 4-6]

106.465 Redetermination of benefits.

Whenever the board or court determines that the original benefits determined in a drainage proceeding no longer reflect reasonable present day land values or that the benefited areas have changed, the court or board may appoint three viewers who shall redetermine the benefits and the benefited areas and report thereon, and the court or board shall hear and determine the same. The proceedings shall be as provided in sections 106.151, 106.161, 106.171, 106.191 and 106.201. Such benefits and benefited areas as redetermined shall thereafter be used in place of the original benefits and benefited areas in all further or future proceedings relating to the drainage proceeding. Any person aggrieved by the redetermination of benefits and benefited areas may appeal from the order determining the same as provided in section 106.631.

[1977 c 135 s 7]

106.471 Repairs.

[For text of subd 1, see M.S.1976]

Subd. 2. **Authority of board; repairs.** (a) After the construction of a state, county or judicial drainage system has been completed, the county board shall maintain the same or such part thereof as lies within the county and provide the repairs required to render it efficient to answer its purpose. The board shall cause such drainage system to be annually inspected, either by a committee thereof, or a ditch inspector appointed by the board, and, if the committee or inspector shall report in writing to the board that repairs are necessary on any ditch system and such report is approved by the board, it shall cause such repairs to be made within the limits hereinafter set forth. The ditch inspector may be the county highway engineer.

(b) If the board finds that the estimated cost of repairs and maintenance of one ditch system for one year will be less than \$10,000, it may have such work done by hired labor and equipment without advertising for bids or entering into a contract therefor. In one calendar year the board shall not levy an assessment for repairs or maintenance on one ditch system in a sum greater than 20 percent of the benefits thereof in that county, or the sum of \$10,000 if the said 20 percent is less than \$10,000, except as provided in subdivision 4.

(c) Before ordering the levy of an assessment for repairs, the county board, in its discretion, may give such notice of hearing thereon as it may deem necessary.

(d) In case of the destruction or impairment of a ditch system by floods or other casualty, or of unforeseen injuries where the public interests would suffer by delay, repairs or reconstruction may be made with or without advertising for bids and without regard to the \$5,000 limitation. No work shall be undertaken nor a

MINNESOTA STATUTES 1977 SUPPLEMENT

106.471 DRAINAGE

contract awarded under this clause, however, unless the area in which the ditch system is located has been declared a disaster area by the President of the United States and federal funds are available for such purpose.

[For text of subds 3 to 5, see M.S.1976]

Subd. 6. **Creation of fund.** For the purpose of creating a fund to the credit of any drainage system to be used for repairs exclusively, the county board is authorized to apportion and assess the amount of the fund against all the parcels of land, corporations and municipalities theretofore assessed for benefits in proceedings for the construction of the ditch system, including lands not originally assessed therefor but subsequently found to be benefited according to law. The assessment shall be made pro rata according to benefits determined. The fund so created shall not exceed 20 percent of the original cost of construction of the ditch system. Whenever the fund to the credit of one ditch system shall exceed 20 percent of the total original cost of the ditch, no further assessment for the purpose of creating the fund shall be made until the fund shall have fallen below that percentage. Assessments shall be collected as provided in subdivision 5.

The assessment, if provided in the order, may be made payable in equal annual instalments. Thereupon the county auditor shall file for record in the office of the county recorder a tabular statement as hereinbefore provided.

When any judicial or county drainage system within the county has been taken over by a watershed district pursuant to section 112.65, subdivision 1, or responsibility for repair and maintenance of the drainage system has been assumed by any other governing body, the county board may transfer from the ditch fund any surplus remaining to the repair fund of the watershed district or to the appropriate fund of any existing governing body having responsibility for repair and maintenance of the drainage system to which the fund was credited.

[For text of subds 7 and 8, see M.S.1976]

[1977 c 115 s 1; 1977 c 135 s 8]

106.673 Ditches, planting with permanent grass.

In any proceeding for the establishment or construction of a public drainage system or ditch or for the improvement, extension, or other work affecting such system or ditch under chapters 106, 111, 112, or any other law now in force or hereafter enacted, where viewers are appointed to assess benefits and damages, the authority having jurisdiction of the proceeding, shall order the spreading of spoil banks consistent with the plan and function of the ditch and shall order the planting of a permanent grass, other than a noxious weed, on the banks and on a strip one rod in width or to the crown of the leveled spoil bank whichever is the greater on each side of the top edge of the channel of the ditch. The acreage which will be required is that needed for the foregoing and the authority having jurisdiction shall acquire the additional interests in land needed for this purpose. No agricultural practices, other than those required for the maintenance of a permanent growth of grass, shall be permitted on any portion of the land acquired for this purpose and it shall be the duty of the authority having jurisdiction over the repair and maintenance of the ditch system to supervise all necessary reseeding and funds shall be expended for the perpetration of the growth of grass in the same manner as for the other ditch repairs. Harvest of grass from the grass strip in any manner not harmful to the grass or ditch shall be the privilege of the fee owner or his assigns, subject to such regulations as the county ditch inspector shall establish for the harvesting of grass.

[1977 c 135 s 9]