

CHAPTER 111

CONSERVANCY

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111.09 ASSISTANTS, EMPLOYEES.

[For text of subd 1, see M.S.1984]

Subd. 2. **Chief engineer, attorney.** The board may employ a chief engineer and an attorney, and such other engineers and attorneys or agents or assistants as are needful and necessary and shall provide for their compensation. All such expenses shall be, as far as practicable, as a part of the costs of each improvement upon which such engineer and attorney perform services, and as far as applicable shall be governed by section 106A.645.

[For text of subds 3 and 4, see M.S.1984]

History: 1985 c 172 s 106

111.11 ESTABLISHMENT OF DISTRICT; CLASSES.

After the organization of the board of directors of any drainage and conservancy district organized under the provisions of sections 111.02 to 111.42 and upon filing with the clerk of the board a petition signed by not less than 25 freeholders of the district (but in no event shall more than 25 percent of the owners of the property affected be required), or by the board of county commissioners of any county, or the council of any city likely to be affected by the proposed improvement therein, asking for the construction within the limits of the conservancy district of any of the improvements authorized by the provisions of sections 111.02 to 111.42 relative to drainage, regulation, control, or conservation of the waters of any lake, pond, marsh, or body of water, river, stream, watercourse, ditch, or drain within the district which may cover the whole or any part of the improvement contemplated when the district was organized, therein describing the need of the proposed improvement, the extent thereof, and describing in general terms the bodies of water, streams, or watercourses proposed to be improved, or reservoirs or other improvements constructed; and, if the construction of a ditch or drain as a part of the proposed improvement contemplated, a description of the starting point, the general course and termination thereof shall be given therein, or if the contemplated improvements require that any ditch or drain established and constructed under any law of this state, or any portion thereof, be utilized for the protection of fires in areas subject to destruction or damage by fire or for irrigation, all as specified, a description of such ditch and drain, or the portions thereof so required, and a general description of such areas, protection whereof from fire is sought, or irrigation is sought, setting forth the reasons and necessity for such improvements and that the same, if constructed, will benefit public health and general welfare of the inhabitants in that vicinity, and the petition is to be accompanied by a bond signed by the petitioners, or any number of them, or other parties in their behalf, in such sum as the board of directors of such district may specify and such as it shall approve, conditioned for payment of all costs or expenses in connection with such improvements in the event the petition, as therein set forth or subsequently modified, is not granted; it shall be the duty of the board of directors of the district to cause to be made, at the earliest possible date, by

its engineer, all necessary surveys, maps, plats, profiles, and plans covering the proposed improvements so as to fully inform the board as to the merits and practicability of proposed improvements, and, in making the surveys, plats, profiles, and report, the engineer shall, so far as practicable, conform to the requirements of General Statutes 1923, Section 6678, and the board shall have authority to correct, change, or modify the proposed improvements, as outlined in the petition, and if the report of the engineer is favorable to the construction of the improvements, and is approved by the board of directors, the board shall, with the least possible delay, appoint three disinterested citizens of the state to act as viewers, and the viewers so selected shall, after subscribing an oath to faithfully and impartially perform their duties, proceed to personally inspect and examine all lands, highways, and other property likely to be affected by the improvements, or that may be used or taken for the construction or maintenance thereof and shall, in the performance of their duties so far as practicable comply with the provisions of sections 106A.305 to 106A.321 and make and file with the clerk of the board with such plans and specifications a detailed statement showing the actual benefits and damages that will result to individuals, property, or corporations from the construction of the improvements, and a list of lands and other property, including highways and corporations, that will be actually benefited or damaged, and the amount thereof, and include lands, roads, corporations, and other property receiving actual benefits by way of drainage or control of flood waters, or by regulation, conservation, and application of waters for fire protection and irrigation, as hereinbefore authorized, and lands or water powers further down the valley and include all lands to which a drainage outlet is supplied by such improvement by way of increased facilities for drainage or control of flood waters or protection from fire or for irrigation, and all such property and corporations shall be assessable for the cost of the proposed improvement in proportion to the actual benefits received, as finally determined by the court; provided, the board of directors of the district may elect to levy no assessment under this section upon water powers, but collect for such improvement as otherwise provided in sections 111.02 to 111.42. General Statutes 1923, Sections 6681 and 6682, so far as applicable, shall apply to and govern the work of the viewers under sections 111.02 to 111.42. In any case where fire protection is part of the relief prayed for in the petition and the utilization of any existing ditch or drain, or any portion thereof, is alleged to be necessary thereto, the petition for such improvements, before being presented to the board of directors, shall be signed by not less than 50 percent of the resident freeholders (but in no event shall more than 25 signers be required) whose lands are affected by the ditch or drain, or portion thereof, to be utilized, and approved by resolution of the board of county commissioners of each county wherein the same is located.

History: 1985 c 172 s 107

111.13 MODIFICATIONS, APPROVAL OR REJECTION.

At the time and place specified in the notice, the court shall hear all parties interested for and against the granting of the petition and confirming the reports, and may order and direct the modification of the plans and specifications and the assessments of benefits and damages and amend or change the list of property reported as assessable for the construction and maintenance thereof, or may recommit the same to the engineer or viewers, or both, for changes. If upon full hearing the court shall find that the improvement will be conducive to the public health and promote the general welfare and cause the protection and reclamation of wet or overflowed lands or the control of flood waters in streams, channels, and reservoirs, or aid in the prevention of fires in the areas, or any purpose authorized by

sections 111.02 to 111.42, in the drainage and conservancy district and that the benefits resulting therefrom will be greater than the costs of the construction and damages, and a sum equal to 15 percent of the cost of the construction, exclusive of damages, for maintenance, then the court shall make its findings accordingly and order and direct the construction of the improvement and confirm the report of the engineer and the findings and report of the board or the viewers with reference to benefits and damages and lands assessable, and may, by this order, authorize the board of the district to construct the whole or any part of the improvement petitioned for or to let contracts for the improvement ordered as a whole or for different parts thereof separately. All persons, parties, or corporations affected by the order shall have the right to appeal on questions of benefits and damages in the manner now provided for appeals in the case of judicial ditches, pursuant to provisions of sections 106A.091 and 106A.095.

If any ditch or drain, or any portion thereof, mentioned in the petition and reports is proper to be utilized for any of the objects or purposes of sections 111.02 to 111.42, the court shall include in its findings all matters in respect thereto and in and by the order fix and limit the use and application of the same therefor, taking care not to destroy the ditch, or any part thereof, so used for the purposes for which it was established. Upon the entry of the order, the board of directors of the district shall have and exercise all the authority thereover theretofore vested in any public corporation or administrative body as to such ditch or drain, or portion thereof, and be charged with all the duties of any such public corporation or administrative body as to the upkeep, repair, and maintenance of any such ditch, or the part thereof taken under sections 111.02 to 111.42.

History: 1985 c 172 s 108

111.30 APPORTIONMENT OF COSTS.

At the time set for hearing on the report and petition of the board of directors of any district and the report of the engineer asking for the establishment of any improvement under the provisions of sections 111.02 to 111.42, or at any time subsequent thereto, upon five days' notice, in writing, to the auditor of each county containing property affected by such improvement, the court shall apportion the amount of the total costs of the construction of the improvements among the counties affected in proportion to the benefits received and shall fix and determine the amount to be paid by each and, upon similar notice to the auditor, the judge of the district court may, at any time, modify his order as justice may require, or make additional orders covering additional expense. The word "expense," as used in this section, shall be construed to mean every item of cost of the improvement from its inception to its completion and all fees and expenses paid or incurred, including all damages awarded; and, upon the filing of the order, or a certified copy thereof, with the auditor of each county affected, together with a list of all property in the county affected and a statement of all benefits and damages affecting the same, and such other information as the court, by order, may direct, it shall be the duty of the county board of each county to provide the necessary funds to meet the proportionate share of the cost of the improvement, as specified in the order, in the same manner as now provided in the case of judicial ditch proceedings, under section 106A.635. Immediately, or at the earliest date possible following the letting of contracts for the construction of the improvement by the board of directors of the district, it shall cause to be made and filed, with its clerk and with the auditor of each county affected, a statement showing the total cost of the improvement, including expenses as nearly as they can be ascertained, and the proportionate amount that the property within each county affected shall be required to pay on the

basis fixed by the order of the court, together with a list of all property benefited within such county; and thereupon it shall become the duty of the auditor of each county to cause to be made and recorded the tabular statement and lien against the property benefited within the county the amount to be paid by the property in the county, in accordance with the provisions of sections 106A.601 and 106A.605; and it shall be the duty of the county commissioners of each county to provide funds to meet the proportionate share of the total cost of the improvement, as shown by the report of the board of the drainage and conservancy district and the order of the court, and the county board is authorized to exercise all rights and authority in so doing now granted to the board of county commissioners under the provisions of sections 106A.605, subdivisions 1 and 2; and 106A.635 and other provisions relating to county and judicial ditch proceedings. It shall be the duty of the respective county auditors and county treasurers to levy and collect the amount shown in the tabular statement and lien, as provided in sections 106A.611 and 106A.615. All money received by the treasurer of any county from the sale of bonds, assessments, or otherwise for the benefit of the district shall be by him accounted for and paid over to the treasurer of the district.

History: 1985 c 172 s 109

111.31 ASSESSMENTS.

Upon the filing by the board of directors of a drainage and conservancy district with the auditor of any county of a statement as provided in section 111.30, giving a list of the property and corporations benefited or damaged or otherwise affected by any proposed improvement, it shall be the duty of the auditor to assess the amount specified in such list against the lands and municipalities or other corporations as therein specified in accordance with the provisions of section 106A.615, he shall proceed to levy and collect the sums specified in the lists against the property and corporations in accordance with the provisions thereof and, in the event the sum so reported shall become a direct charge against the county, it may be paid by such county out of its road and bridge fund, or otherwise, as the county commissioners may direct, and may be paid in whole or in installments as may be specified by the board of county commissioners of the county. No assessment shall be levied against any property or corporation benefited under the provisions of sections 111.02 to 111.42 in excess of the amounts of benefits received as fixed by the order of the court directing the construction of the improvement or subsequently determined on appeal.

History: 1985 c 172 s 110

111.36 NEGLECT OF AFFAIRS.

The provisions of section 106A.081 relating to the obstruction or injury of work shall apply to any and all improvements made or authorized under the provisions of sections 111.02 to 111.42, and any other provision contained in the laws of this state relating to judicial or county ditches providing for punishment for damages committed to or interfering with such work shall apply to all improvements made under the provisions of sections 111.02 to 111.42.

History: 1985 c 172 s 111

111.78 LIENS TO BEAR INTEREST.

The amount that each tract of land, public or private, shall be liable for on account of the construction of works authorized in sections 111.65 to 111.80 shall

bear interest from the date of the filing of the auditor's statement in the office of the county recorder at the legal rate until paid.

Such liens may be paid to the county treasurer at any time after the recording of the auditor's statement in the office of the county recorder.

When payment of the full amount of the liens with interest shall at any time be made the county auditor, upon presentation of a receipt from the county treasurer to that effect, shall issue under his hand a certificate of such payment and the same when recorded in the office of the county recorder shall release and discharge the lien of record.

On or before November 15 next following the filing by the auditor of such statement, he shall enter on the tax lists of the county the amount of the lien against each tract of land, all of which shall be payable as directed by the court on such tract, which shall be subject to and be collected with like penalties as all other taxes.

The auditor of the county wherein the proceedings are held is hereby authorized, upon order of the court, to issue warrants of the county to pay the official costs of such proceedings and when the costs are assessed against the lands in more than one county such costs are to be determined and apportioned between the counties affected in proportion to the benefits assessed against the lands and property in such county. The issued warrants are to draw interest at the legal rate, subject to their payment as provided under section 106A.655.

History: 1985 c 172 s 112