

CHAPTER 378

BODIES OF WATER

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378.01 NAMING LAKES, RIVERS, STREAMS, AND BODIES OF WATER; PETITION.

When it is desired to change the name of, or give a name to, any unnamed lake, river, stream, or body of water located within the boundaries of this state, the commissioner of natural resources, or any 15 or more legal voters residing within the county where all or any part of such body of water is located, may petition the county board of the county wherein the petitioners reside, or in which the body of water is located, to change the name of, or to give a name to, any previously unnamed lake, river, stream, or other body of water, however designated. The petitioners shall describe, in their petition with reasonable correctness, the location of any such lake, river, stream, or other body of water; the name, if any, by which it may then be known, or if without any name, such fact shall be stated; the name or names which the petitioners desire given to the body of water; and the reason for such change of name or for giving the designated name to any previously unnamed body of water. The petitioners shall set out after each of their names, as signed to the petition, their place of residence. No name of any lake, river, stream, or other body of water, which name has existed for 40 years, shall be changed under the provision of sections 378.01 to 378.06.

History: (751-2) 1925 c 157 s 1; 1937 c 35 s 1; 1971 c 25 s 23

378.02 HEARINGS BY COUNTY BOARD.

On the filing of such petition with the auditor of the county wherein the petitioners reside, or in which the body of water is located, and presenting therewith the necessary copies thereof hereafter required, such auditor shall present the petition to the county board of the county, which board shall by order fix the day and place of hearing on the petition to be held more than 30 days thereafter, of which hearing at least three weeks' published notice shall be given in the newspaper designated by the county board as the official newspaper for the county; provided that the hearing may be held at any convenient place within the county, as shall be determined by the board. On the day fixed for the hearing any legal voters in the county, or any municipality, may appear, by attorney or in person, and file an answer to the petition, setting out in plain concise language why the prayer of the petitioners should not be granted in whole or in part, and, may in the answer pray the county board to give another or different name to the lake, river, stream, or other body of water than the one prayed for in the original

petition. The petitioners may include in the petition any number of lakes, rivers, streams, or other bodies of water, the names of which they may petition to have changed, or any number of previously unnamed lakes, rivers, streams, or other bodies of water which they may desire to have given a name by the board in the proceedings, and the same procedure shall be had on the petition in such event as though only one lake, river, stream, or other body of water be described in the petition.

History: (751-3) 1925 c 157 s 2; 1937 c 35 s 1

378.03 NOTICES OF HEARINGS.

Notice of the time and place of hearing on any such petition shall also be served on the commissioner of natural resources and personally on the chair of the town board of any town, on the president of any statutory city board of trustees, and on the mayor of any city within or adjoining limits of which political subdivision any such lake, river, stream, or other body of water involved in the hearing may be located and it shall be the duty of such official on whom the notice of hearing shall be served, to present such notice to the board or council who shall take such action thereon as they shall deem to be for the public interest.

History: (751-4) 1925 c 157 s 3; 1937 c 35 s 1; 1971 c 25 s 24; 1973 c 123 art 5 s 7; 1986 c 444

378.04 HEARINGS; PROCEDURE; WATERS IN MORE THAN ONE COUNTY.

At the time fixed by the notice of hearing on the petition, or at any time to which the hearing may be adjourned by the county board, the board shall hear all parties desiring to be heard thereon and shall make an order, by resolution, fixing and determining the name which any lake, river, stream, or other body of water described in the petition shall have and bear, and the name so fixed by the board shall be the name of such lake, river, stream, or other body of water and such designation shall thereafter be used and followed as its legal name. If any petition so filed shall describe a lake, river, stream, or other body of water located within the boundaries of more than one county, then the county boards of the several counties affected shall act jointly and as one body, a majority of such joint body being sufficient to determine upon a name; the county auditor with whom such a petition shall be filed shall forward by mail a certified copy of the same to the auditor of each of the counties so affected, who shall present same to the respective county boards, and the notice of hearing thereon determined upon by the joint body shall be published in each such county as provided in section 378.02. The auditor of the county in which the petition was filed shall make and file certified copies of the resolution so adopted in the office of the county recorder of each county affected at the expense of the petitioners.

History: (751-5) 1925 c 157 s 4; 1976 c 181 s 2

378.05 NAMES NOT TO BE DUPLICATED.

In choosing and fixing the name of any river, lake, stream, or other body of water, the county board or boards shall, as far as possible, not duplicate names of existing lakes, rivers, streams, or other bodies of water, and shall select and approve such names therefor, as shall in their judgment be for the permanent good and best interests of the county or counties affected. To that end, the auditor of the county wherein a petition shall be filed shall cause a copy thereof, together with a copy of the notice of hearing thereon, to be forwarded by mail to the director of waters, soils and minerals, who shall compare the names suggested in the petition with the names of other lakes, rivers, streams, or bodies of water within the state and report findings and recommendations back to the auditor before the date of the hearing.

History: (751-6) 1925 c 157 s 5; 1967 c 905 s 5; 1986 c 444

378.06 PETITIONERS TO GIVE BONDS.

Before any such petition shall be acted upon or the notice of hearing given, the

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petitioners shall give a bond to be approved by the county attorney of the county wherein the petition has been filed, conditioned upon the full payment of all reasonable expenses which the county or counties shall incur in such proceeding; provided, that the commissioner of natural resources shall not be required to give bond hereunder.

History: (751-7) 1925 c 157 s 6; 1937 c 35 s 1; 1971 c 25 s 25

378.07 [Repealed, 1947 c 123 s 7]

378.08 LAND ACQUIRED, ACCESS TO NAVIGABLE WATERS; PARK AND PLAYGROUND.

The county board of any county may acquire by purchase, gift, or devise, land contiguous to the meander line of any navigable lake or stream wholly or partly within such county but not entirely within the corporate limits of any city, and not exceeding ten acres in area, for public access to such lake or stream, and may improve, equip, and maintain the same as a park and playground.

History: (751-1) 1925 c 254; 1973 c 123 art 5 s 7

378.09 FISH SCREENS.

When the whole or major part of any navigable lake which has been stocked with fish by the United States government is situated in a single county, the county board thereof, in order to maintain such fish therein and prevent their escape therefrom, may erect and maintain, at the inlets and outlets thereof, screens necessary for such purpose, and such county board shall have power to appropriate from the county treasury all necessary moneys for the erection and maintenance of such screens; when such lake is situated in two or more counties, the county boards thereof may jointly provide for the erection and maintenance of such screens, the expense thereof to be borne equally between such counties, and such county boards shall have power to appropriate from the county treasury of their respective counties all necessary moneys for such purpose.

History: (752) 1913 c 87 s 1

378.10 [Local, Hennepin county]

378.11 [Local, Hennepin county]

378.12 [Local, Hennepin county]

378.13 [Local, Hennepin county]

NOTE: Sections 378.10 to 378.13 are not applicable to Ramsey county. See Laws 1974, chapter 435, article 7, section 1.

378.14 [Repealed, 1965 c 45 s 73]

378.15 [Repealed, 1965 c 45 s 73]

378.16 [Repealed, 1965 c 45 s 73]

378.17 [Repealed, 1965 c 45 s 73]

378.18 [Repealed, 1961 c 561 s 17]

378.19 [Repealed, 1961 c 561 s 17]

378.20 BATHING BEACHES.

Subdivision 1. Bathing beach. A public bathing beach, as the term is used in this section, shall be taken to mean any public land, road or highway adjoining public waters, which have been or may be used for bathing or swimming, or any privately owned place which the public is permitted to frequent or use for bathing.

Subd. 2. Hennepin county, unlawful to bathe at public beaches at certain times. In all counties which now have or shall hereafter have a population of 450,000 or more, it shall be unlawful for any person to frequent a public bathing beach or public waters upon which the same immediately borders for the purpose of swimming or bathing, or congregating with others, or to swim or bathe or congregate thereat, between the hours of 10:30 p.m. and 5:00 a.m. of the day following.

Subd. 3. Hennepin county, regulatory ordinances. The governing bodies or boards of all counties having a population of more than 450,000, and all cities and towns situated within such counties, shall have authority, by ordinance, resolution, or bylaw, to regulate the use of public bathing beaches and public waters immediately bordering thereon for the purpose of bathing or swimming or congregating with the others thereat, within their respective territorial limits, not inconsistent herewith.

Subd. 4. May close beaches. If any such body or board shall reasonably determine that the safety, health, morals, or general welfare of the public shall so require, it may, by ordinance, resolution, or bylaw, provide that any such public bathing beach shall be closed to bathing, swimming, and congregating after the hour of 9:00 p.m., or after any time between 9:00 a.m. and 10:30 p.m. of any day.

Subd. 5. Not restrictive. Nothing in this section shall limit or abrogate any of the existing powers of any body or governing board of any county, city, or town.

Subd. 6. Penalty. Any person violating any of the provisions hereof shall be guilty of a misdemeanor.

History: (10278-3, 10278-4, 10278-5, 10278-6, 10278-7, 10278-9) 1933 c 364 s 1-5, 7; 1973 c 123 art 5 s 7

378.21 GUARDING ICE-CUTTING.

Every person cutting ice in or upon any waters wholly or partly in the state, for the purpose of removing the ice, at or before the time of commencing such cutting, shall surround the cuttings and openings with fences or guards sufficient to warn all persons of the same, and shall maintain such fence or guard until the ice has again formed in such openings to the thickness of at least six inches. Every such person who shall fail to comply with any requirement of this section shall be guilty of a misdemeanor.

History: (10268) RL s 5006

378.22 WATER AERATION SAFETY.

Subdivision 1. Warning signs. Any permittee operating an aeration system on public waters within the state shall comply with the sign posting requirements of this section and applicable rules and orders of the commissioner of natural resources.

Subd. 2. Posting requirements. (a) Where an aeration system is used on the ice of public waters, signs shall be posted by the permittee at a height of from four to six feet in a rectangular pattern at each corner of the open water, and additional signs between the corner signs so that a sign is posted at least every 100 feet.

(b) Additional signs shall be posted by the permittee on the shoreline of the public waters at each public access point and other areas commonly used by the public for access to the lake.

(c) The signs shall comply with the applicable order of the commissioner of natural resources.

Subd. 3. Publication of notice. Advance public notice of the commencement of any aeration system, authorized by a permit from the commissioner of natural resources during periods of ice cover on public waters, shall be given by the permittee. Minimum notice shall consist of publication of the location and date of commencement of the system in a newspaper of general circulation in the area where the system is proposed to be operated at least two times between five and 60 days prior to commencement.

Subd. 4. Evidence. In any action for negligence arising out of the conduct of aeration operations authorized by a permit from the commissioner of natural resources during periods of ice cover on public waters, evidence of compliance with the posting and publication requirements of this section and applicable rules, orders and permit provisions of the commissioner of natural resources shall be prima facie evidence of the exercise of due care by the permittee.

Subd. 5. Water aeration rules. The commissioner of natural resources shall, by September 1, 1988, adopt rules relating to the issuance of permits for aeration, bubbler,

water circulation, and similar systems used to increase dissolved oxygen or to maintain open water on the ice of public waters.

Subd. 6. **Public waters without access.** (a) A riparian landowner may aerate public waters with a permit under this subdivision if the public waters do not have a public access and the person aerating the public waters owns all of the riparian land or all of the possessory rights to the riparian lands.

(b) The provisions of this section do not apply to the aeration under this subdivision except the public waters must be posted as provided under subdivision 2, paragraphs (a) and (c).

History: 1981 c 256 s 1; 1987 c 184 s 2-4; 1988 c 588 s 15,16

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 human 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 or lake conservation district established by law. Upon approval by the affected city or lake conservation district, a county board may assume and thereafter exercise the powers set forth in this section with respect to bodies of water lying wholly within that city or lake conservation district. 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. 5a. To improve navigation and to acquire by gift or purchase land, equipment or other facilities for this purpose;

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;

Subd. 10. To make cooperative agreements with the United States or state government or any other county or city 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.

History: 1973 c 123 art 5 s 7; 1973 c 702 s 4; 1974 c 392 s 1; 1975 c 147 s 1,2; 1986 c 444

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 or lake conservation district established by law, 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. With the authorization of the affected city or lake conservation district, a county board may assume and exercise the powers set forth in this section with respect to bodies of water lying wholly within that city or lake conservation district. The regulation by the county of the surface use of any portion of a body of water situated within the boundaries of a city 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. After January 1, 1975, any such ordinance shall be consistent with the provisions of chapter 361 and rules 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 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, the commissioner shall return it to the local governmental unit with a written statement of the 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 regulations are subject to section 378.321 and a county board may not regulate state accesses and a municipality may by ordinance preempt the county from exercising power under this subdivision 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 rules 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 rules of the department of natural resources;

Subd. 6. Except as provided in section 378.321, 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. Subject to section 378.321, 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.

History: 1973 c 123 art 5 s 7; 1973 c 702 s 5; 1974 c 392 s 2; 1977 c 322 s 1; 1985 c 248 s 70; 1986 c 439 s 1-3; 1986 c 444

378.321 PUBLIC ACCESS RESTRICTIONS.

The county board must allow the same types and sizes of watercraft and horsepower of motors to access and enter the lake or water body as are generally allowed to be operated on the lake or water body. Special use exceptions that are not dependent on lakeshore or property ownership may be granted by permit.

History: 1986 c 439 s 4

NOTE: This section, as added by Laws 1986, chapter 439, section 4, does not apply to ordinances adopted pursuant to contracts providing for a public access to a body of water entered into by a county or municipality with the commissioner of natural resources that have been executed prior to March 26, 1986, but will apply to all public accesses after June 1, 1993. See Laws 1986, chapter 439, section 6.

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.

History: 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.

History: 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.

History: 1973 c 702 s 8

378.401 CITATION.

Sections 378.405, 378.455, and 378.41 to 378.56 may be cited as the lake improvement district act.

History: 1986 c 443 s 1, 17

378.405 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this section and sections 378.455, and 378.41 to 378.56.

Subd. 2. **Board.** "Board" means county board.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 4. **District.** "District" means a lake improvement district.

Subd. 5. **Joint county authority.** "Joint county authority" means a joint county authority formed by county boards under section 378.44.

Subd. 6. **Property owner.** "Property owner" means the owner of real property within the district or the buyer under contract for deed of property in the district.

History: 1986 c 443 s 2,17

378.41 ADMINISTRATION BY COMMISSIONER.

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

(b) 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. **Rules.** The commissioner shall adopt permanent and emergency rules to provide guidelines, criteria and standards for establishment of lake improvement districts by counties.

History: 1973 c 123 art 5 s 7; 1973 c 702 s 9; 1978 c 726 s 2; 1985 c 248 s 70; 1986 c 443 s 3

378.42 INITIATION AND ESTABLISHMENT BY COUNTY BOARD.

Subdivision 1. **Resolution of intent.** The county board may initiate the establishment of a lake improvement district in a portion of the county under this section. The board must adopt a resolution declaring the intent of the board to establish a lake improvement district. The resolution must:

(1) specify the boundaries of the district, which shall be encouraged to be as consistent as practical with natural hydrologic boundaries;

(2) prescribe the water and related land resource management programs to be undertaken in the district;

(3) state how the programs will be financed;

(4) designate the county officer or agency that will be responsible for supervising the programs; and

(5) set a date for a hearing on the resolution.

Subd. 1a. **Notice to town board.** The county board shall, at least 30 days before making an order establishing a lake improvement district, send the town board of a town wholly or partially within the boundaries of the proposed district a copy of the resolution to the town board and encourage the town board to respond to the proposed creation of the district.

Subd. 2. **Hearing.** The county board must hold a public hearing on whether a lake improvement district should be established. Before the date set for the hearing, any interested person may file objections to the formation of the district with the county auditor. At the hearing, any interested person may offer objections, criticisms, or suggestions about the necessity of the proposed district and how the person's property will be benefited or affected by the establishment of the district.

Subd. 3. **Establishment.** (a) The county board may establish a lake improvement district, by order, after making findings, if the board determines that the:

(1) proposed district is necessary or that the public welfare will be promoted by the establishment of the district;

(2) property to be included in the district will be benefited by establishing the district; and

(3) formation of the district will not cause or contribute to long-range environmental pollution.

(b) The order establishing the district must state the board's findings and specify or prescribe those matters contained in subdivision 1, paragraphs (1) to (4).

History: 1973 c 702 s 10; 1978 c 726 s 3-5; 1986 c 443 s 4

378.43 INITIATION BY PETITION AND ESTABLISHMENT BY COUNTY BOARD.

Subdivision 1. **Petition.** (a) A lake improvement district may be initiated by a petition to the county board. The petition must state:

(1) the name of the proposed lake improvement district;

(2) the necessity of the proposed district to promote public health or public welfare;

(3) the benefits to property from the establishment of the lake improvement district;

(4) the boundaries of the proposed district which shall be encouraged to be as consistent as possible with natural hydrologic boundaries;

(5) a map of the proposed district;

(6) the number, from five to nine, of directors proposed for the district; and

(7) a request for establishing the district as proposed.

(b) A petition must be signed by 26 percent of the property owners within the proposed lake improvement district described in the petition. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

(c) The petition must be filed with the county auditor and addressed to the board requesting the board to establish a lake improvement district to develop and provide a program of water and related land resources management.

(d) The county board shall, at least 30 days before it acts on a petition, send the town board of a town wholly or partially within the boundaries of a proposed district a copy of the petition submitted under this subdivision and encourage the town board to respond to the proposed creation of the district.

Subd. 2. **Hearing.** After receiving the petition, the county auditor must verify the signatures and notify the county board. Within 30 days after being notified of the petition, the county board must hold a public hearing on whether the requested lake improvement district should be established.

Subd. 3. **Establishment.** Within 30 days after holding the public hearing, the county board shall, by order, establish or deny the establishment of the petitioned lake improvement district. An order establishing a district must conform to section 378.455 and may modify the petition relating to the district's boundaries, functions, financing, or organization.

History: 1973 c 702 s 11; 1978 c 726 s 6,7; 1986 c 443 s 5; 1987 c 384 art 1 s 36

378.44 ESTABLISHMENT OF A DISTRICT IN MORE THAN ONE COUNTY.

Where the natural hydrologic boundaries of a proposed district extend into more than one county, the county boards of the counties affected may form a joint county authority and establish and maintain a lake improvement district jointly or cooperatively as provided in section 471.59. The district may be initiated by the joint county authority in the same manner as a county board under section 378.42 or by petition to the affected county boards.

History: 1973 c 702 s 12; 1986 c 443 s 6

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 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, the commissioner 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.

History: 1973 c 702 s 13; 1986 c 444

378.455 ORDER ESTABLISHING DISTRICT.

An order by the county board or joint county authority establishing a district must state the:

- (1) name of the district;
- (2) boundaries of the district, which are encouraged to be as consistent as practical with natural hydrologic boundaries;
- (3) water and related land resources management programs and services to be undertaken;
- (4) manner of financing programs and services; and
- (5) number, qualifications, terms of office, removal, and filling of vacancies of the board of directors.

History: 1986 c 443 s 7

378.46 PUBLICATION AND EFFECTIVE DATE.

Subdivision 1. **Publication of establishment order.** If a lake improvement district is established, the county board, or joint county authority issuing the order establishing the district, shall publish the order once in the official newspapers of counties where the district is located and file the order with the secretary of state, the pollution control agency, and the commissioner of natural resources.

Subd. 2. **Effective date.** Establishment of the lake improvement district is effective 30 days after publication or at a later date, if specified in the establishment order.

History: 1973 c 702 s 14; 1978 c 726 s 8; 1986 c 443 s 8

378.47 REFERENDUM ON ESTABLISHMENT.

Subdivision 1. **Petition.** Twenty-six percent of the property owners within the lake improvement district established by the board or a joint county authority on its own initiative under section 378.42 may petition for a referendum on establishing the district before the effective date of its establishment. After receiving the petition, the

county board or joint county authority must issue an order staying the establishment until a referendum vote is taken of all qualified voters and property owners within the proposed lake improvement district.

Subd. 2. Election. The county board or joint county authority shall conduct a special election in July or August after receiving the referendum petition. The special election must be held within the proposed lake improvement district. The county auditor shall administer the special election.

Subd. 3. Question submitted to voters. The question to be submitted and voted upon by the qualified voters and property owners within the proposed lake improvement district must be stated substantially as follows:

"Should a lake improvement district be established to provide (description of intended water and related land resources improvements) and financed by (description of revenue sources)?"

Subd. 4. Certification of vote and establishment. The county auditor must certify the vote on the question submitted. If a majority of those voting on the question favor establishing the proposed lake improvement district, the stay on establishing the district is lifted. If a majority of those voting on the question do not favor establishing the proposed lake improvement district, the establishment is denied.

History: 1973 c 702 s 15; 1978 c 726 s 9,10; 1986 c 443 s 9

378.51 BOARD OF DIRECTORS.

Subdivision 1. Membership. After a lake improvement district is established, the county board or joint county authority shall appoint persons to serve as an initial board of directors for the district. The number, qualifications, terms of office, removal, and filling of vacancies of directors shall be as provided in the order creating the board of directors. The initial and all subsequent boards of directors must include persons owning property within the district, and a majority of the directors must be residents of the district.

Subd. 2. Compensation. The directors shall serve with compensation as determined by the property owners at the annual meeting and may be reimbursed for their actual expenses necessarily incurred in the performance of their duties in the manner provided for county employees.

Subd. 3. Powers. County boards, joint county authorities, statutory and home rule cities, and towns may, by order, delegate the powers in this section to the board of directors of a district to be exercised within the district. Programs and services undertaken must be consistent with the statewide water and related land resources plan prepared by the commissioner of natural resources, and with regional water and related resources plans. A body of water may not be improved by using authority granted under this section unless the public has access to some portion of the shoreline. County boards, joint county authorities, statutory and home rule cities, and towns may delegate their authority to a district board of directors to:

(1) acquire by gift or purchase an existing dam or control works that affects the level of waters in the district;

(2) construct and operate water control structures that are approved by the commissioner of natural resources under section 105.42;

(3) undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 105.42;

(4) acquire property, equipment, or other facilities, by gift or purchase to improve navigation;

(5) contract with a board of managers of a watershed district within the lake improvement district or the board of supervisors of a soil and water conservation district within the district for improvements under chapters 40 and 112;

(6) undertake research to determine the condition and development of the body

of water and the water entering it and to transmit the studies to the pollution control agency and other interested authorities;

(7) develop and implement a comprehensive plan to eliminate water pollution;

(8) conduct a program of water improvement and conservation;

(9) construct a water, sewer, or water and sewer system in the manner provided by section 444.075 or other applicable laws;

(10) receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs;

(11) make cooperative agreements with the United States or state government or other county or city to effectuate water and related land resource programs;

(12) maintain public beaches, public docks, and other public facilities for access to the body of water;

(13) provide and finance a government service of the county or statutory or home rule city that is not provided throughout the county or, if the government service is provided, the service is at an increased level within the district; and

(14) regulate water surface use as provided in section 378.32.

History: 1973 c 702 s 16; 1978 c 726 s 11; 1986 c 443 s 10

378.52 FINANCING.

Subdivision 1. Revenue. The county board or joint county authority may undertake projects of improvement consistent with purposes of the district. To finance projects and services of the district, the county board or joint county authority may:

(1) assess the costs of the projects upon benefited property within the district in the manner provided under chapter 429;

(2) impose service charges on the users of lake improvement district services within the district;

(3) issue obligations as provided in section 429.091;

(4) levy an ad valorem tax solely on property within the lake improvement district, to be appropriated and expended solely on projects of special benefit to the district; or

(5) may impose or issue any combination of service charges, special assessments, obligations, and taxes.

Subd. 2. Tax excluded from other limitations. The tax under subdivision 1 is excluded from statutory limitations on the amount of taxes levied and does not affect the amount or rate of taxes that may be levied for other county purposes. A tax under subdivision 1 may be in addition to amounts levied on all taxable property in the county for the same or similar purposes.

Subd. 3. Budgeting for operations. The county board or county boards forming the joint county authority shall include appropriate provisions in its budget for the operation of a lake improvement district.

History: 1973 c 702 s 17; 1978 c 726 s 12; 1986 c 443 s 11

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.

History: 1973 c 702 s 18

378.54 ENFORCEMENT OF ORDINANCES.

Where a lake improvement district has been established by joint county action under section 378.44 or 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.

History: 1973 c 702 s 19; 1986 c 443 s 12

378.545 ANNUAL MEETING OF DISTRICT.

Subdivision 1. Time. A district must have an annual meeting. The first annual meeting shall be scheduled during the month of July or August, and be held annually in that period unless changed by vote of the previous annual meeting.

Subd. 2. Notice. The annual meeting shall be preceded by two weeks published notice and written notice mailed at least ten days in advance of the meeting to the county board or joint county authority, town boards and statutory and home rule charter cities wholly or partially within the district, the pollution control agency, and commissioner of natural resources and all property owners within the assessment area for any proposed project by the district having a cost in excess of \$5,000.

Subd. 3. Agenda. At the annual meeting the district property owners present shall:

- (1) elect one or more directors to fill vacancies in the board of directors;
- (2) approve a budget for the fiscal year;
- (3) approve or disapprove proposed projects by the district having a cost to the district in excess of \$5,000; and
- (4) take up and consider other business as comes before it.

History: 1978 c 726 s 16; 1986 c 443 s 15,17; 1988 c 504 s 1

378.55 EXPANSION OF THE BOUNDARIES OF A LAKE IMPROVEMENT DISTRICT.

The boundary of a district may be enlarged by complying with the procedures to establish a district under sections 378.41 to 378.46.

History: 1973 c 702 s 20; 1978 c 726 s 13; 1986 c 443 s 13

378.56 TERMINATION.

Subdivision 1. Petition. Termination of a district may be initiated by petition requesting the termination of the district. The petition must be signed by 26 percent of the property owners in a district within 30 days after receiving a petition. The county board or joint county authority must set a time and place for a hearing on terminating the district.

Subd. 1a. Findings and order. If the board or joint county authority determine that the existence of the district is no longer in the public welfare or public interest and it is not needed to accomplish the purpose of sections 378.31 to 378.56 the board or joint county authority shall make the findings and terminate the district by order. Upon filing a certified copy of the findings and order with the secretary of state, pollution control agency, and commissioner of natural resources the district is terminated and ceases to be a political subdivision of the state.

Subd. 2. Termination of financing. If a district is terminated under subdivision 1, additional water and related land resource management programs may not be undertaken with money raised by a special tax within the district, and additional special water and related land resource management taxes may not be levied within the district. If 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 an affected county.

History: 1973 c 702 s 21; 1978 c 726 s 14,15; 1986 c 443 s 14,17

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378.57 ANNUAL REPORT.

The board of directors shall annually make and file a report of the financial conditions of the district, the status of all projects therein, the business transacted by the district, other matters affecting the interests of the district, and a discussion of the directors' intentions for the succeeding years. Copies of the report shall be transmitted to the county board or joint county authority, town boards and city councils of statutory and home rule charter cities wholly or partially within the district, the commissioner of natural resources, and the pollution control agency by four months after the annual meeting.

History: 1988 c 504 s 2