

103E.227 IMPOUNDING AND DIVERSION OF DRAINAGE SYSTEM WATERS.

Subdivision 1. **Petition.** (a) To conserve and make more adequate use of our water resources, a person, public or municipal corporation, governmental subdivision, the state or a department or agency of the state, the commissioner of natural resources, and the United States or any of its agencies, may petition for the installation of dams or other control works in drainage ditch systems to impound or divert waters for beneficial use. The petition must be directed to the drainage authority where the drainage system is located.

(b) The petition must contain the location of the installation, plans, and specifications for the proposed structure and a map of the areas likely to be affected by the impoundment or diversion.

(c) The petitioner shall agree to be responsible for the cost of installation and construction of the structure.

(d) The petition must also be accompanied by a public waters work permit or a water use permit from the commissioner of natural resources if required under chapter 103G.

Subd. 2. **Bond.** (a) Upon filing the petition, the petitioners shall file a bond as provided in section 103E.202.

(b) A bond is not required if the petition is filed by the state, a state agency or department, the commissioner of natural resources, the United States or any of its agencies, or a municipality.

Subd. 3. **Procedure to establish project.** (a) After receiving the petition, bond, and permit, if required, the drainage authority must appoint an engineer to investigate the effect of the proposed installation and file a report of findings.

(b) After filing of the engineer's report, notice must be given and a public hearing held as provided in section 103E.261.

(c) If from the hearing it appears from the engineer's report and other evidence presented that the installation will be of a public or private benefit and that it will not impair the utility of the ditch or deprive affected land owners of its benefit, the drainage authority shall make an order modifying the drainage system and issue a permit authorizing its installation.

Subd. 4. **Flowage easements required.** Before installing or constructing an impoundment or diversion, the petitioner shall obtain rights-of-way and flowage easements from owners of land to be affected by it.

Subd. 5. **Assessment of maintenance and repair costs.** The order of the drainage authority modifying the drainage system must provide that construction and later maintenance and repairs

of the drainage system modification and installation must be done by the petitioner without assessment of the cost to the property owners previously within the drainage system.

History: *1990 c 391 art 5 s 32*