CHAPTER 103E

DRAINAGE

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GENERAL PROVISIONS

103E.005 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Affected.** "Affected" means benefited or damaged by a drainage system or project.

Subd. 3. **Auditor.** "Auditor" means the auditor of the county where the petition for a drainage project was properly filed.

Subd. 4. **Board.** "Board" means the board of commissioners of the county, a joint county board, the board of managers of the watershed district, or a metropolitan watershed management organization that serves as the drainage authority where the drainage system or project is located.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 6. **Director.** "Director" means the director of the Division of Ecological and Water Resources in the Department of Natural Resources.

Subd. 7. **Dismissal of proceedings.** "Dismissal of proceedings" means that the petition and proceedings related to the petition are dismissed.

Subd. 8. **Ditch.** "Ditch" means an open channel to conduct the flow of water.

Subd. 9. **Drainage authority.** "Drainage authority" means the board or joint county drainage authority having jurisdiction over a drainage system or project.

Subd. 10. **Drainage lien.** "Drainage lien" means a lien recorded on property for the costs of drainage proceedings and construction and interest on the lien, as provided under this chapter.

Subd. 11. **Drainage project.** "Drainage project" means a new drainage system, an improvement of a drainage system, an improvement of an outlet, or a lateral.

Subd. 12. **Drainage system.** "Drainage system" means a system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets, established and constructed by a drainage authority. Drainage system includes the improvement of a natural waterway used in the construction of a drainage system and any part of a flood control plan proposed by the United States or its agencies in the drainage system.

Subd. 13. **Engineer.** "Engineer" means the engineer for a drainage project appointed by the drainage authority under section 103E.241, subdivision 1.

Subd. 14. **Established.** "Established" means the drainage authority has made the order to construct the drainage project.

Subd. 15. **Lateral.** "Lateral" means any drainage construction by branch or extension, or a system of branches and extensions, or a drain that connects or provides an outlet to property with an established drainage system.

Subd. 16. **Municipality.** "Municipality" means a statutory or home rule charter city or a town having urban powers under section 368.01, subdivision 1 or 1a. For purposes of sections 103E.315, 103E.611, and 103E.615, municipality includes a water management authority to which a portion of a drainage system is transferred under section 103E.812.

Subd. 17. **Notice by mail.** "Notice by mail" means a notice mailed and addressed to each person entitled to receive the notice, if the address is known to the auditor or can be determined by the county treasurer of the county where the affected property is located.

Subd. 18. **Owner.** "Owner" means an owner of property or a buyer of property under a contract for deed.

Subd. 19. **Passes over.** "Passes over" means in reference to property that has a drainage project or system, the 40-acre tracts or government lots or property that is bordered by, touched by, or underneath the path of the proposed drainage project.

Subd. 20. **Person.** "Person" means an individual, firm, partnership, association, or private corporation.

Subd. 21. **Political subdivisions.** "Political subdivisions" means statutory and home rule charter cities, counties, towns, school districts, and other political subdivisions.

Subd. 22. **Proceeding.** "Proceeding" means a procedure under this chapter for or related to drainage that begins with filing a petition and ends by dismissal or establishment of a drainage project.

Subd. 23. **Property.** "Property" means real property.

Subd. 24. **Publication.** "Publication" means a notice published at least once a week for three successive weeks in a legal newspaper in general circulation in each county affected by the notice.

Subd. 25. **Public health.** "Public health" includes an act or thing that tends to improve the general sanitary condition of the community by drainage, relieving low wetland or stagnant and unhealthful conditions, or preventing the overflow of any property that produces or tends to produce unhealthful conditions.

Subd. 26. **Public waters.** "Public waters" has the meaning given in section 103G.005, subdivision 15.

Subd. 27. **Public welfare or public benefit.** "Public welfare" or "public benefit" includes an act or thing that tends to improve or benefit the general public, either as a whole or as to any particular community or part, including works contemplated by this chapter, that drain or protect roads from overflow, protect property from overflow, or reclaim and render property suitable for cultivation that is normally wet and needing drainage or subject to overflow.

Subd. 28. **Road.** "Road" means any road used by the public for transportation purposes.

Subd. 28a. **Secretary.** "Secretary" means the secretary of the watershed district that serves as the drainage authority for the applicable drainage system.

Subd. 29. **Water management authority.** "Water management authority" means a county or municipality, watershed district, watershed management organization, stormwater management district, lake improvement district, subordinate service district, joint powers organization or other special district organized and formed according to law for the purpose of managing storm, surface, and floodwaters, or with the authority to manage storm, surface, and floodwaters.

History: *1990 c 391 art 5 s 1; 2002 c 327 s 1,2; 2013 c 4 s 1-3*

103E.011 DRAINAGE AUTHORITY POWERS.

Subdivision 1. **Generally.** The drainage authority may make orders to:

(1) construct and maintain drainage systems;

(2) deepen, widen, straighten, or change the channel or bed of a natural waterway that is part of the drainage system or is located at the outlet of a drainage system;

(3) extend a drainage system into or through a municipality for a suitable outlet; and

(4) construct necessary dikes, dams, and control structures and power appliances, pumps, and pumping machinery as provided by law.

Subd. 2. **Draining water basins and watercourses.** A drainage authority may not drain a water body or begin work or activity regulated by the public-waters-work permit requirement under section 103G.245 in a watercourse until the commissioner determines that the water body or watercourse is not public waters. If a water body or watercourse is determined to be public waters, the drainage proceedings are subject to section 103G.211 relating to replacing public waters and the water bank program.

Subd. 3. **Commissioner's permission; work in public waters; application.** (a) The drainage authority must receive permission from the commissioner to:

(1) remove, construct, or alter a dam affecting public waters;

(2) establish, raise, or lower the level of public waters; or

(3) drain any portion of a public water.

(b) The petitioners for a proposed drainage project or the drainage authority may apply to the commissioner for permission to do work in public waters or for the determination of public waters status of a water body or watercourse.

Subd. 4. **Flood control.** The drainage authority may construct necessary dams, structures, and improvements and maintain them to impound and release floodwater to prevent damage. The dams, structures, and improvements may be constructed with or without a drainage project. For a water body or watercourse that is not public waters the drainage authority may:

(1) lower or establish the level of water in the water body or watercourse to control floodwaters;

(2) build structures and improvements to maintain a water body or watercourse for flood control or other public purposes; and

(3) construct dikes or dams in a water body to maintain water at the level designated by the drainage authority and to drain part of the water body.

Subd. 5. **Using external sources of funding.** Notwithstanding other provisions of this chapter, a drainage authority may accept and use funds from sources other than, or in addition to, those derived from assessments based on the benefits of the drainage system for the purposes of wetland preservation or restoration or creation of water quality improvements or flood control. The sources of funding authorized under this subdivision may also be used outside the benefited area but must be within the watershed of the drainage system.

History: *1990 c 391 art 5 s 2; 2000 c 488 art 3 s 27; 2018 c 182 art 1 s 10*

103E.015 CONSIDERATIONS BEFORE DRAINAGE WORK IS DONE.

Subdivision 1. **Environmental, land use, and multipurpose water management criteria.** Before establishing a drainage project, the drainage authority must consider each of the following criteria:

(1) private and public benefits and costs of the proposed drainage project;

(2) alternative measures, including measures identified in applicable state-approved and locally adopted water management plans, to:

(i) conserve, allocate, and use drainage waters for agriculture, stream flow augmentation, or other beneficial uses;

(ii) reduce downstream peak flows and flooding;

(iii) provide adequate drainage system capacity;

(iv) reduce erosion and sedimentation; and

(v) protect or improve water quality;

(3) the present and anticipated land use within the drainage project or system, including compatibility of the project with local land use plans;

(4) current and potential flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events, including adequacy of the outlet for the drainage project;

(5) the effects of the proposed drainage project on wetlands;

(6) the effects of the proposed drainage project on water quality;

(7) the effects of the proposed drainage project on fish and wildlife resources;

(8) the effects of the proposed drainage project on shallow groundwater availability, distribution, and use; and

(9) the overall environmental impact of all the above criteria.

Subd. 1a. **Investigating potential use of external sources of funding and technical assistance.** When planning a drainage project or a repair under section 103E.715, and prior to making an order on the engineer's preliminary survey report for a drainage project or the engineer's report for a repair, the drainage authority shall investigate the potential use of external sources of funding to facilitate the purposes indicated in section 103E.011, subdivision 5, and alternative measures in subdivision 1, clause (2). This investigation shall include early coordination with applicable soil and water conservation district and county and watershed district water planning authorities about potential external sources of funding and technical assistance for these purposes and alternative measures. The drainage authority may request additional information about potential funding or technical assistance for these purposes and alternative measures from the executive director of the Board of Water and Soil Resources.

Subd. 2. **Determining public utility, benefit, or welfare.** In any proceeding to establish a drainage project, or in the construction or repair of or other work affecting a public drainage system under any law, the drainage authority or other authority having jurisdiction over the proceeding must give proper consideration to conservation of soil, water, wetlands, forests, wild animals, and related natural resources, and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit, or welfare.

History: *1990 c 391 art 5 s 3; 2014 c 164 s 1-3*

103E.021 PLANTING DITCHES WITH PERENNIAL VEGETATION.

Subdivision 1. **Requirements; spoil banks and permanent vegetation.** In any proceeding to establish, construct, improve, or do any work affecting a public drainage system under any law that appoints viewers to assess benefits and damages, the authority having jurisdiction over the proceeding shall order spoil banks to be spread consistent with the plan and function of the drainage system. The authority shall order that permanent grass, other than a noxious weed, be planted on the ditch side slopes and that a permanent strip of perennial vegetation approved by the drainage authority be established on each side of the ditch. Preference should be given to planting native species of a local ecotype. The approved perennial vegetation shall not impede future maintenance of the ditch. The permanent strips of perennial vegetation shall be 16-1/2 feet in width measured outward from the top edge of the constructed channel resulting from the proceeding, or to the crown of the leveled spoil bank, whichever is the greater, except for an action by a drainage authority that results only in a redetermination of benefits and damages, for which the required width shall be 16-1/2 feet. Drainage system rights-of-way for the acreage and additional property required for the permanent strips must be acquired by the authority having jurisdiction.

Subd. 2. **Reseeding and harvesting perennial vegetation.** The authority having jurisdiction over the repair and maintenance of the drainage system shall supervise all necessary reseeding. The permanent strips of perennial vegetation must be maintained in the same manner as other drainage system repairs. Harvest of the vegetation from the permanent strip in a manner not harmful to the vegetation or the drainage system is the privilege of the fee owner or assigns. The drainage inspector shall establish rules for the fee owner and assigns to harvest the vegetation.

Subd. 3. **Agricultural practices prohibited.** Agricultural practices, other than those required for the maintenance of a permanent growth of perennial vegetation, are not permitted on any portion of the property acquired for perennial vegetation.

Subd. 4. **Compliance work by drainage authority.** If a property owner does not bring an area into compliance with this section as provided in the compliance notice, the inspection committee or drainage inspector must notify the drainage authority. If a property owner does not bring an area into compliance after being notified under section 103E.705, subdivision 2, the drainage authority must issue an order to have the work performed to bring the property into compliance. After the work is completed, the drainage authority must send a statement of the expenses incurred to bring the property into compliance to the auditor of the county where the property is located and to the property owner.

Subd. 5. **Collecting compliance expenses.** (a) The amount of the expenses to bring an area into compliance with this section is a lien in favor of the drainage authority against the property where the expenses were incurred. The auditor must certify the expenses and enter the amount in the same manner as other drainage liens on the tax list for the following year. The amount must be collected in the same manner as real estate taxes for the property. The provisions of law relating to the collection of real estate taxes shall be used to enforce payment of amounts due under this section. The auditor must include a notice of collection of compliance expenses with the tax statement.

(b) The amounts collected under this subdivision must be deposited in the drainage system account.

Subd. 6. **Incremental establishment; vegetated buffer strips and side inlet controls.** (a) Notwithstanding other provisions of this chapter requiring appointment of viewers and redetermination of benefits and damages, a drainage authority may make findings and order the establishment of permanent buffer strips of perennial vegetation or side inlet controls, or both, adjacent to a public drainage ditch, where necessary to control erosion and sedimentation, improve water quality, or maintain the efficiency of the drainage system. The drainage authority's finding that establishing permanent buffer strips of perennial vegetation or side inlet controls is necessary to control erosion and sedimentation, improve water quality, or maintain the efficiency of the drainage system is sufficient to confer jurisdiction under this subdivision. Preference should be given to planting native species of a local ecotype. The approved perennial vegetation must not impede future maintenance of the ditch. The permanent strips of perennial vegetation shall be 16-1/2 feet in width measured outward from the top edge of the existing constructed channel. Drainage system rights-of-way for the acreage and additional property required for the permanent strips must be acquired by the authority having jurisdiction.

(b) A project under this subdivision must be implemented as a repair according to section 103E.705, except that the drainage authority may appoint an engineer to examine the drainage system and prepare an engineer's repair report for the project.

(c) Damages must be determined by the drainage authority, or viewers, appointed by the drainage authority, according to section 103E.315, subdivision 8. A damages statement must be prepared, including an explanation of how the damages were determined for each property affected by the project, and filed

with the auditor or watershed district. Within 30 days after the damages statement is filed, the auditor or watershed district must prepare property owners' reports according to section 103E.323, subdivision 1, clauses (1), (2), (6), (7), and (8), and mail a copy of the property owner's report and damages statement to each owner of property affected by the proposed project.

(d) After a damages statement is filed, the drainage authority must set a time, by order, not more than 30 days after the date of the order, for a hearing on the project. At least ten days before the hearing, the auditor or watershed district must give notice by mail of the time and location of the hearing to the owners of property and political subdivisions likely to be affected by the project.

(e) The drainage authority must make findings and order the repairs to be made if the drainage authority determines from the evidence presented at the hearing and by the viewers and engineer, if appointed, that the repairs are necessary for the drainage system and the costs of the repairs are within the limitations of section 103E.705.

History: *1990 c 391 art 5 s 4; 2007 c 57 art 1 s 107-110; 2019 c 24 s 2*

103E.025 PROCEDURE FOR DRAINAGE PROJECT THAT AFFECTS STATE LAND OR WATER AREA USED FOR CONSERVATION.

Subdivision 1. **Applicability.** If a land or water area owned by the state and held or used to protect or propagate wild animals, provide hunting or fishing for the public, or for any other purpose relating to the conservation, development, or use of soil, water, forests, wild animals, or related natural resources will be affected by any public project or proceeding for drainage under any law, all procedures relating to the project or proceeding are subject to this section, if applicable.

Subd. 2. **Conditions to take or damage state land and water areas.** (a) Any part of the state land or water area may be taken or damaged for a public project after payment of just compensation as provided by law and under the provisions of this subdivision.

(b) The authority having jurisdiction of the drainage project or proceeding shall first find and determine that there is public necessity for the taking or damage that is greater than the public interest in the purposes for which the affected land and water areas are held or used by the state.

(c) In determining the compensation to be paid for the taking or damage, the authority must give proper consideration to the value of the land and water area for the purposes it is held or used by the state and other material elements of value.

(d) Public waters may not be taken, damaged, or impaired except as otherwise expressly authorized by law, and a provision of any other law for the protection or conservation of public waters may not be abridged or superseded by this subdivision.

Subd. 3. **Considerations in determining benefits.** In determining benefits to the state land or water area in any proceeding to levy assessments or offset benefits against damages, proper consideration must be given to the value of the area for the purpose it is held or used by the state, with other material elements of value.

Subd. 4. **Amounts paid to state.** Any amounts paid to the state for taking or damaging the state land or water area in a proceeding must be credited to the proper account for acquisition, development, or maintenance of the areas, and the amount is appropriated to the commissioner for those purposes to remain available until expended.

Subd. 5. **Money to pay assessments.** Assessments for benefits made against the state land or water area in a proceeding must be paid out of money appropriated and available to pay assessments as provided by law.

History: *1990 c 391 art 5 s 5*

103E.031 CONNECTION WITH DRAINS IN ADJOINING STATES.

Subdivision 1. **Procedure.** If it is necessary to construct a drainage project at or near the boundary between this state and another state or country and the work cannot be done in a proper manner without extending the drainage project into the adjoining state or country, the drainage authority may join with the board or tribunal of the adjoining state or country having jurisdiction to plan and construct public drainage systems. The drainage authority in this state may enter into contracts or arrangements with the board or tribunal of the adjoining state or country to construct the drainage project. The proceeding and construction related to property in this state and, as applicable, the drainage authority in relation to the joint drainage work, are governed by this chapter.

Subd. 2. **Paying costs.** The adjoining county or district in another state or country must pay its proper share of the necessary costs of the construction of any drainage work including damages. If the benefits to property in the adjoining state or country are not sufficient to pay all the costs of construction of the drainage project in that state or country, including damages, the drainage authority may authorize or direct the affected counties to contribute sufficient funds to complete the construction of the drainage project in the adjoining state or country, if the construction will be of sufficient benefit to the affected property in this state to warrant the contribution.

History: *1990 c 391 art 5 s 6*

103E.035 DEFECTIVE NOTICE.

If notice is required under this chapter and proper notice has been given to some parties but the notice is defective or not given to other parties, the drainage authority has jurisdiction of all parties that received proper notice. The proceedings may be continued by order of the drainage authority for the time necessary to publish, post, or mail a new notice. The new notice needs only be given to those not properly notified by the first notice.

History: *1990 c 391 art 5 s 7*

103E.041 PERSONAL SERVICE IN LIEU OF OTHER METHODS OF NOTICE.

If notice is to be given under this chapter, personal service at least ten days before the date of hearing may be given in lieu of the manner provided. The notice must be served in the manner provided for the service of summons in a civil action in district court.

History: *1990 c 391 art 5 s 8*

103E.043 INFORMAL MEETINGS.

A drainage authority may hold informal meetings in addition to the meetings and hearings required in this chapter to inform persons affected by the drainage system about the drainage proceedings and provide a forum for informal discussions.

History: *1990 c 391 art 5 s 9*

103E.045 FAILURE TO ATTEND HEARINGS; DRAINAGE AUTHORITY.

If an order has been made and notice for a hearing given under this chapter, and the drainage authority does not appear at the time and place specified for any reason, the auditor shall continue the hearing to a date set by the auditor. The auditor shall notify the drainage authority of the continuance and the date of hearing. The jurisdiction is continued until the date set by the auditor.

History: *1990 c 391 art 5 s 10*

103E.051 DEFECTIVE PROCEEDINGS.

(a) A party may not take advantage of an error in a drainage proceeding or an informality, error, or defect appearing in the record of the proceeding or construction, unless the party complaining is directly affected. The modification of the benefits or damages to any property, or the enjoining of collection of any assessment, does not affect any other property or the collection of any assessment on other property.

(b) If a drainage project has been established and a contract awarded in good faith, without collusion, and at a reasonable price:

(1) a defect or lack of notice in awarding, making, or executing the contract does not affect the enforcement of an assessment; and

(2) if the contract is performed in good faith in whole or in part, a defect does not invalidate the contract.

History: *1990 c 391 art 5 s 11*

103E.055 REIMBURSING COST OF FORMER SURVEYS WHEN USED LATER.

If after a proceeding has begun a survey has been made and a proceeding to establish a drainage project has been dismissed or the drainage project has not been established, and if all or a part of the former survey is used by the engineer for a drainage proceeding in the same area, the amount saved in the subsequent proceedings must be paid to the proper parties according to this section. If the parties who paid the expense of the former survey make a petition, the drainage authority shall:

(1) determine the amount of benefit that was derived by the subsequent proceedings from the former survey;

(2) order the amount of the benefit to be paid to the proper parties; and

(3) charge the amount paid as a cost of the subsequent drainage proceeding.

History: *1990 c 391 art 5 s 12*

103E.061 RIGHT OF ENTRY.

In proceedings under this chapter, the engineer, the engineer's assistants, the viewers, and the viewers' assistants may enter any property to make a survey, locate a drain, examine the property, or estimate the benefits and damages.

History: *1990 c 391 art 5 s 13*

103E.065 DRAINAGE INSPECTORS.

In counties or watershed districts having drainage systems constructed in accordance with this chapter, the drainage authority shall appoint a competent person as drainage inspector. The inspector must not be a

county commissioner. The inspector may be the county highway engineer. The inspector shall examine the drainage systems designated by the drainage authority. The drainage authority shall specify the appointment period and compensation.

History: *1990 c 391 art 5 s 14; 2010 c 298 s 2; 2014 c 289 s 50*

103E.067 MS 2024 [Repealed, 1Sp2025 c 1 art 4 s 28]

103E.071 COUNTY ATTORNEY.

The county attorney shall represent the county in all drainage proceedings and related matters without special compensation, except as provided in section 388.09, subdivision 1. A county attorney, the county attorney's assistant, or any attorney associated with the county attorney in business may not otherwise appear in any drainage proceeding for any interested person.

History: *1990 c 391 art 5 s 15; 2019 c 24 s 3*

103E.075 OBSTRUCTING DRAINAGE SYSTEM.

Subdivision 1. **Notice to responsible party.** If the board determines that a drainage system has been obstructed, including by the installation of bridges or culverts of insufficient hydraulic capacity, the board shall notify the person or public authority responsible for the obstruction as soon as possible and direct the responsible party to remove the obstruction or show the board why the obstruction should not be removed. The board must set a time and location in the notice for the responsible person to appear before the board.

Subd. 2. **Private property.** If the obstruction is on private property, the owner is responsible for the obstruction unless the owner proves otherwise. The owner must be notified by certified mail at least ten days before the hearing.

Subd. 3. **Obstruction hearing.** The board shall hear all interested parties and if the board determines that the drainage system has been obstructed by a person or public authority, the board shall order the obstruction removed by the responsible party within a reasonable time set in the order. If the obstruction is not removed by the prescribed time, the board shall have the obstruction removed and the auditor shall make a statement of the removal cost. The statement must be filed in the county recorder's office as a lien on the property where the obstruction is located or against the responsible party. The lien must be enforced and collected as liens for drainage repairs under this chapter, except that a lien may not be filed against private property if the board determines that the owner of the property is not responsible for the obstruction. The lien may be enforced against the responsible party by civil action.

History: *1990 c 391 art 5 s 16*

103E.081 CRIMES RELATED TO DRAINAGE SYSTEMS; PENALTIES.

Subdivision 1. **Unauthorized drain outletting.** A person may not cause or construct a drain that outlets into a lawfully constructed drainage system except as provided in this chapter.

Subd. 2. **Obstructing or damaging.** A person may not willfully obstruct or damage a drainage project or system.

Subd. 2a. **Planting trees over public tile.** A person must not knowingly plant trees over a public drain tile, unless the person planting the trees receives permission from the drainage authority.

Subd. 2b. **Planting trees over private tile.** A person must not knowingly plant trees over a private drain tile that provides for the drainage of land owned or leased by another person, unless the person planting the trees receives permission from all persons who receive drainage benefits from the drain tile.

Subd. 3. **Altering engineer's marking of stakes.** A person may not willfully change the location or alter markings of stakes set by the engineer in a drainage project or system.

Subd. 4. **Penalty.** Violation of this section is a misdemeanor.

History: *1990 c 391 art 5 s 17; 1Sp2005 c 1 art 2 s 117,118*

103E.085 ENFORCEMENT.

Subdivision 1. **Warrants and arrests.** An enforcement officer, as defined in section 97A.015, subdivision 18, may execute and serve warrants, and arrest persons detected in actual violation of sections 103E.005 to 103E.811 as provided in sections 97A.205 and 97A.211.

Subd. 2. **Prosecution.** The county attorney shall prosecute all criminal actions arising under this chapter.

History: *1990 c 391 art 5 s 18*

103E.091 APPEALS.

Subdivision 1. **Grounds for appeal.** A party may appeal to the district court from a recorded order of a drainage authority made in a drainage proceeding that determines:

(1) the amount of benefits;

(2) the amount of damages;

(3) fees or expenses allowed; or

(4) whether the environmental, land use, and multipurpose water management requirements and criteria of section 103E.015, subdivision 1, are met.

Subd. 2. **Appeals; benefits and damages.** (a) A person who appeals the amount of benefits or damages may include benefits and damages affecting property not owned by the appellant. Notice of the appeal must be served to the auditor and to the owner or occupant of property included in the appeal or to the attorney representing the property owner in the proceedings.

(b) The appellant must file a notice of appeal with the auditor within 30 days after the order to be appealed is filed. The notice must state the particular benefits or damages appealed and the basis for the appeal. Within 30 days after the notice is filed, the auditor must file the original notice with the court administrator of the district court.

Subd. 3. **Appeals; allowing fees or expenses.** An appeal related to the allowance of fees or expenses may be to the district court of any county where the affected property is located. The appeal must be made within 30 days after the order allowing or disallowing the claim and is governed as applicable by the provisions of subdivision 4.

Subd. 4. **Appeal trial.** (a) The issues in the appeal are entitled to a trial by a jury in the district court of the county where the drainage proceeding was pending.

(b) At the request of the appellant, the trial must be held at the district court of the county where the affected property is located. The court administrator of the district court where the appeal is first filed shall

make, certify, and file with the court administrator of the district court of the county where the trial is transferred, a transcript of the papers and documents on file in the court administrator's office in the proceedings related to the matters of the appeal. After the final determination of the appeal, the court administrator of the district court that tried the appeal shall certify and return the verdict to the district court of the county where the drainage proceedings were filed.

(c) The appeal shall take precedence over all other civil court matters. If there is more than one appeal to be tried in one county, the court may, on its own motion or the motion of an interested party, consolidate two or more appeals and try them together, but the rights of the appellants must be determined separately. If the appellant does not prevail, the cost of the trial must be paid by the appellant.

(d) The court administrator of the district court where the appeal is filed shall file a certified copy of the final determination of the appeal with the auditor of the affected counties.

Subd. 5. **Effect of determination.** For all appeals, the amount awarded by the jury as a determination of the issue appealed shall replace the amount that was appealed.

History: *1990 c 391 art 5 s 19; 2014 c 164 s 4*

103E.095 APPEAL FROM ORDERS DISMISSING OR ESTABLISHING DRAINAGE SYSTEMS.

Subdivision 1. **Notice of appeal.** A party may appeal an order made by the board that dismisses drainage proceedings or establishes or refuses to establish a drainage project to the district court of the county where the drainage proceedings are pending. The appellant must serve notice of the appeal to the auditor within 30 days after the order is filed. After notice of the appeal is served, the appeal may be brought to trial by the appellant or the drainage authority after notifying the other party at least ten days before the trial date.

Subd. 2. **Trial.** The appeal must be tried by the court without a jury. The court shall examine the entire drainage proceeding and related matters and receive evidence to determine whether the findings made by the board can be sustained. At the trial the findings made by the board are prima facie evidence of the matters stated in the findings, and the board's order is prima facie reasonable. If the court finds that the order appealed is lawful and reasonable, it shall be affirmed. If the court finds that the order appealed is arbitrary, unlawful, or not supported by the evidence, it shall make an order, justified by the court record, to take the place of the appealed order, or remand the order to the board for further proceedings. After the appeal has been determined by the court, the board shall proceed in conformity with the court order.

Subd. 3. **Multiple appeals; order of determination.** If the order establishing a drainage project is appealed, the trial of appeals related to benefits or damages in the drainage proceeding must be stayed until the establishment appeal is determined. If the order establishing the drainage project is affirmed, appeals related to benefits and damages must then be tried.

Subd. 4. **Appeal order establishing drainage project; notice.** If an order refusing to establish a drainage project is appealed, and the court, by order, establishes the drainage project, the auditor shall give notice by publication of the filed order. The notice is sufficient if it refers to the drainage project or system by number or other descriptive designation, states the meaning of the order, and states the date the court order was filed. A person may appeal the establishment order to the district court as provided in this section.

Subd. 5. **Appeal of appellate order.** A party aggrieved by a final order or judgment rendered on appeal to the district court may appeal as in other civil cases. The appeal must be made and perfected within 30 days after the filing of the order or entry of judgment.

History: *1990 c 391 art 5 s 20*

103E.097 ATTORNEY FEES ON APPEAL.

If the commissioner of natural resources is a party making an appeal under section 103E.091 or 103E.095 and the commissioner does not prevail on the issues appealed, the court may award attorney fees to the party prevailing on the appeal. If more than one issue is appealed and the commissioner prevails on some issues and does not prevail on others, the court shall determine the amount of the attorney fee to be awarded.

History: *1990 c 391 art 5 s 21*

103E.101 DRAINAGE PROCEEDING AND CONSTRUCTION RECORDS.

Subdivision 1. **Public records.** All maps, plats, charts, drawings, plans, specifications, and other documents that have been filed, received in evidence, or used in connection with a drainage proceeding or construction are subject to the provisions on public records in section 15.17.

Subd. 2. **Record requirements.** All maps, plats, profiles, plans, and specifications prepared and used in relation to a proceeding must:

(1) be uniform;

(2) have each sheet marked to identify the proceeding by the drainage project and system number;

(3) show the name of the person preparing the sheet;

(4) show the date the sheet was prepared; and

(5) conform to rules and standards prescribed by the director.

Subd. 3. **Index of proceedings and records.** The auditor or secretary shall keep all orders, exhibits, maps, charts, profiles, plats, plans, specifications, and records of the proceedings. These records may not be removed except when the board makes a written order to remove them. The auditor or secretary shall keep an accurate index of the proceedings and related documents in a readily usable, resilient, and secure manner.

Subd. 4. **Engineer's documents.** All original plats, profiles, records, and field books made by the engineer during the proceedings or the construction of a drainage project are public records and the property of the drainage authority. These public records must be filed with the auditor or secretary under the direction of the drainage authority when construction is completed or when the engineer stops acting for the drainage project, whichever is earlier.

Subd. 4a. **Reestablishing records.** (a) If, after thorough investigation of drainage system records, a drainage authority finds that records establishing the alignment, cross section, profile, or right-of-way of a drainage system that it administers are lost, destroyed, or otherwise incomplete, it may, by order, reestablish records defining the alignment; cross section; profile; hydraulic structure locations, materials, dimensions, and elevations; or right-of-way of the drainage system as originally constructed or subsequently improved in accordance with this chapter. The procedure for reestablishing drainage system records must involve, at a minimum, investigation and a report of findings by a professional engineer licensed in Minnesota supported by existing records and evidence, including, but not limited to, applicable aerial photographs, soil borings or test pits, culvert dimensions and invert elevations, and bridge design records. The existing and reestablished records together must define the alignment; cross section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage system. Drainage system records reestablished under this subdivision do not interrupt prescriptive occupation.

(b) The description of a drainage system under this subdivision may be initiated by the drainage authority on its own motion or by any party affected by the drainage system filing a petition. If the system is under the jurisdiction of a county board, the petition must be filed with the auditor. If the system is under the jurisdiction of a joint county drainage authority, the petition must be filed with the auditor of the county with the largest area of property in the drainage system. If the system is under the jurisdiction of a watershed district board, the petition must be filed with the secretary.

(c) When a drainage authority directs by resolution or when a petition is filed under this subdivision, the drainage authority, in consultation with the auditor or secretary, shall set a time and location for a hearing after the engineer's report is complete. The auditor or secretary shall give notice of the hearing by mail to the commissioner of natural resources, the executive director of the Board of Water and Soil Resources, the petitioner or petitioners, and all property owners benefited or damaged by the drainage system and shall give notice to other interested parties either in a newspaper of general circulation in the drainage system area or by publication on a website of the drainage authority.

(d) Drainage system records reestablished under this subdivision constitute official drainage system records. A finding of drainage system right-of-way in the applicable order is a defense to a trespass claim and shall be given due weight in any subsequent court proceeding to establish the existence or nature of a property encumbrance.

Subd. 5. **Filing and storage facilities.** County boards shall provide the auditor, and watershed district boards shall provide the secretary, with necessary filing and storage facilities to protect the files and records of all proceedings under its jurisdiction. The county boards and watershed district boards may provide for the copying and filing of the documents and records of proceedings by photographic devices as provided for public records under section 15.17. In the event of loss of the originals, the photographic copies are originals after authentication by the auditor or secretary.

Subd. 5a. **Transferring records.** (a) When a watershed district assumes authority for a drainage system according to section 103D.625, the county or joint county board transferring authority shall transfer all of the original records for the drainage system to the watershed district, except as provided in paragraph (b).

(b) Physical or electronic copies of drainage system records that are authenticated by the county auditor having the original records may be used in place of the originals by the watershed district until the watershed district has necessary records storage facilities to protect the original records or, in the case of a partial transfer of a drainage system, until the entire drainage system is transferred to the watershed district.

Subd. 6. **Records; prima facie evidence.** The record of proceedings under this chapter and of orders made by the drainage authority or the district court in the proceedings, or a certified copy of a record or order, is prima facie evidence of the facts stated in the record or order and of the regularity of all proceedings prior to the making of the order.

History: *1990 c 391 art 5 s 22; 2013 c 4 s 4-9*

103E.105 ADVICE ABOUT DRAINAGE QUESTIONS.

The director shall provide advice to a drainage authority or engineer, upon request, about engineering questions or problems in connection with a drainage project or drainage system.

History: *1990 c 391 art 5 s 23*

103E.111 FIELD SURVEYS AND INVESTIGATIONS BY DIRECTOR.

Subdivision 1. **Authorization.** If a field survey or investigation of a drainage project or drainage system is determined to be necessary by the director or is requested in writing by the drainage authority, the director may conduct the survey or investigation.

Subd. 2. **Paying costs.** If the field survey or investigation is made at the request of a drainage authority, the cost must be reported to the drainage authority and paid by the drainage authority as a drainage project or drainage system expense.

History: *1990 c 391 art 5 s 24*

103E.115 HYDROLOGICAL AND DRAINAGE INFORMATION.

(a) The director may prepare and publish:

(1) runoff data;

(2) information about the capacity of drain tile and ditches;

(3) specifications for drain tile, ditches, and ditch construction; and

(4) standard procedural forms for public ditch proceedings.

(b) The director may furnish the information to engineers and drainage authorities for their advice and information.

History: *1990 c 391 art 5 s 25*

103E.121 DRAIN TILE; MANUFACTURING STUDIES.

Subdivision 1. **Drain tile; investigations.** The director may:

(1) investigate the methods used in the manufacture of drain tile;

(2) determine the causes of drain tile failure; and

(3) conduct research and experimentation to improve the quality of drain tile.

Subd. 2. **Manufacturing investigations and tests.** The director may make inspections and tests of manufacturing processes and materials used and the resultant product of a manufacturing plant in the state where drain tile is made and sold to drainage authorities or the general public. The director, or an authorized agent of the director, must have free access to manufacturing plants of drain tile sold in this state for inspections and tests.

Subd. 3. **Distributing information.** The results of inspections and tests must be made public for drainage authorities, engineers, tile manufacturers, and others interested in the use of drain tile.

History: *1990 c 391 art 5 s 26*

PETITIONS FOR DRAINAGE PROJECTS

103E.202 PETITIONS.

Subdivision 1. **Applicability.** This section applies to a petition for a drainage project and a petition for repair.

Subd. 2. **Signatures on petition.** (a) A petition must be signed by a requisite number of owners of 40-acre tracts or government lots and property that the drainage project described in the petition passes over, or by the property owners of the required percentage of the property area determined by the total and percentage of area of 40-acre tracts or government lots that the proposed drainage project passes over, excluding areas in and holders of easements for utilities and roads. A petition may be signed by the commissioner of transportation or by a political subdivision if the property is in the jurisdiction of the commissioner or political subdivision and is passed over by the proposed drainage project.

(b) Each separate parcel of property counts as one signature but the petition must be signed by all owners of the parcel to count as a signature. The signature of each entity regardless of the number of parcels of property owned counts as one signature on the petition.

(c) Paragraph (a) does not apply to a petition for an improvement of an outlet.

Subd. 3. **Withdrawal of petitioner.** After a petition has been filed, a petitioner may not withdraw from the petition except with the written consent of all other petitioners on the filed petition.

Subd. 4. **Filing petition and bond.** A petition for a drainage project and a bond must be filed with the auditor. If a drainage system is within two or more counties, the petition must be filed with the auditor of the county with the greatest area of property that the proposed drainage project passes over.

Subd. 5. **Petitioners' bond.** One or more petitioners must file a bond with the petition for at least $10,000 that is payable to the county where the petition is filed, or for a petition for a proposed joint county drainage system or a petition for a drainage project affecting a joint county drainage system, the bond must be payable to all of the counties named in the petition. The bond must have adequate surety and be approved by the county attorney where the petition is filed. The bond must be conditioned to pay the costs incurred if the proceedings are dismissed or a contract is not awarded to construct the drainage system proposed in the petition.

Subd. 6. **Expenses not to exceed bond.** The costs incurred before the proposed drainage project is established may not exceed the amount of the petitioners' bond. A claim for expenses greater than the amount of the bond may not be paid unless an additional bond is filed. If the drainage authority determines that the cost of the proceeding will be greater than the petitioners' bond before the proposed drainage project is established, the drainage authority must require an additional bond to cover all costs to be filed within a prescribed time. The proceeding must be stopped until the additional bond prescribed by the drainage authority is filed. If the additional bond is not filed within the time prescribed, the proceeding must be dismissed.

History: *1990 c 391 art 5 s 27; 2019 c 50 art 1 s 29*

103E.212 NEW DRAINAGE SYSTEM PROJECTS.

Subdivision 1. **Procedure.** To establish a new drainage system under this chapter, the petitioners and drainage authority must proceed according to this section and the provisions applicable to establishment of drainage projects.

Subd. 2. **Signatures on petition.** The petition for a new drainage system must be signed by a majority of the owners of the property that the proposed drainage system described in the petition passes over, or by the property owners of at least 60 percent of the area that the proposed new drainage system passes over.

Subd. 3. **Petition requirements.** The petition must:

(1) describe the 40-acre tracts or government lots and property where the proposed new drainage system passes over, including names and addresses of the property owners from records in the county assessor's office;

(2) describe the starting point, the general course, and the terminus of the proposed drainage system;

(3) state why the proposed drainage system is necessary;

(4) state that the proposed drainage system will benefit and be useful to the public and will promote public health; and

(5) state that the petitioners will pay all costs of the proceedings if the proceedings are dismissed or the contract for the construction of the proposed drainage system is not awarded.

History: *1990 c 391 art 5 s 28*

103E.215 IMPROVING DRAINAGE SYSTEMS.

Subdivision 1. **Procedure.** The procedure in this section must be used to improve an established and constructed drainage system.

Subd. 2. **Definition.** In this section "improvement" means the tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system including construction of ditches to reline or replace tile and construction of tile to replace a ditch.

Subd. 3. **Limit of extension.** An improvement may only extend a drainage system downstream to a more adequate outlet, and the extension may not exceed one mile.

Subd. 4. **Petition.** (a) A petition must be signed by:

(1) at least 26 percent of the owners of the property affected by the proposed improvement;

(2) at least 26 percent of the owners of property that the proposed improvement passes over;

(3) the owners of at least 26 percent of the property area affected by the proposed improvement; or

(4) the owners of at least 26 percent of the property area that the proposed improvement passes over.

(b) The petition must be filed with the auditor or, for a drainage system in more than one county, with the auditor of the county having the largest area of property the improvement would be located on.

(c) The petition must:

(1) designate the drainage system proposed to be improved by number or another description that identifies the drainage system;

(2) state that the drainage system has insufficient capacity or needs enlarging or extending to furnish sufficient capacity or a better outlet;

(3) describe the starting point, general course, and terminus of any extension;

(4) describe the improvement, including the names and addresses of owners of the 40-acre tracts or government lots and property that the improvement passes over;

(5) state that the proposed improvement will be of public utility and promote the public health; and

(6) contain an agreement by the petitioners that they will pay all costs and expenses that may be incurred if the improvement proceedings are dismissed.

Subd. 5. **Subsequent proceedings.** When a petition and the bond required by section 103E.202 are filed, the auditor shall present the petition to the board at its next meeting or, for a joint county drainage system, to the joint county drainage authority within ten days after the petition is filed. The drainage authority shall appoint an engineer to examine the drainage system and make an improvement report. The improvement proceedings must be conducted under this chapter as provided for the original proceedings for the establishment of a drainage project. The benefits and damages determined must be as a result of the proposed improvement. Assessments for the repair of the improvement must be based on the benefits determined for the improvement.

Subd. 6. **Petition for separable part of drainage system needing repair.** (a) If the existing drainage system needs repair and the petition for the improvement is for a separable part only of the existing drainage system, the engineer may include in the detailed survey report a statement showing the proportionate estimated cost of the proposed improvement required to repair the separable part of the existing system and the estimated proportionate cost of the added work required for the improvement. The notice of hearing on the detailed survey report must be given by publication and mailing to all persons owning property affected by the existing drainage system. The hearing may be held at the same time and location as the establishment hearing for the improvement.

(b) At the hearing, if the drainage authority determines that only a separable portion of the existing drainage system will be improved and that the portion needs repair, the drainage authority shall determine and assess, by order, the proportionate cost of the improvement that would be required to repair the separable portion of the drainage system to be improved. The order must direct that:

(1) the repair portion is allocated as repairs and assessed against all property benefited by the entire drainage system, as provided by section 103E.731; and

(2) the balance of the cost of the improvement is assessed in addition to the repair assessment against the property benefited by the improvement.

History: *1990 c 391 art 5 s 29; 2025 c 20 s 75*

103E.221 IMPROVING OUTLETS.

Subdivision 1. **Conditions for improving outlets.** If a public or private proposed drainage project or existing drainage system has waters draining into an existing drainage system, watercourse, or body of water, and the construction or proposed construction of the drainage project causes an overflow of the existing drainage system, watercourse, or body of water on adjoining property, an affected county or the owners of the overflowed property may start outlet improvement proceedings under this section.

Subd. 2. **Petition.** (a) A petition must be signed by the board of an affected county, by at least 26 percent of the owners of adjoining overflowed property, or by the owners of at least 26 percent of the area of the overflowed property. The petition must:

(1) describe the property that has been or is likely to be overflowed including the names and addresses of the property owners from records in the county assessor's office;

(2) state in general terms by number or otherwise the drainage systems that have caused or are likely to cause the overflow;

(3) describe the location of the overflowed drainage system, watercourse, or body of water and the outlet;

(4) show the necessity of the improvement by enlarging the system or controlling the waters by off-take ditches, additional outlets, or otherwise;

(5) show that the outlet improvement will protect the adjoining property from overflow;

(6) state that the improvement will be of public benefit and utility and improve the public health; and

(7) state that the petitioners will pay all costs incurred if the proceedings are dismissed or a contract for construction of the outlet improvement is not awarded.

(b) The petitioners, except for a petition made by the board, shall give the required bond.

Subd. 3. **Filing petition.** The petition shall be filed with the county auditor. If the board makes the petition, it must be addressed to the drainage authority and filed with the auditor. If part of the improvement or the overflowed property is located in more than one county, the petition must be filed with the auditor of the county with the greatest affected area.

Subd. 4. **Jurisdiction of drainage authority.** After the petition is filed, the board or joint county drainage authority where the petition is filed has jurisdiction of the petition, the improvement, the affected property, and all proceedings for the establishment and construction of the outlet improvement and the assessment of property benefited by the outlet improvement, as provided for establishment and construction of a drainage project under this chapter.

Subd. 5. **Preliminary survey report; requirements.** In the preliminary survey report, the engineer shall show the existing or proposed drainage projects or systems that cause the overflow, the property drained or to be drained by the drainage project, and the names of affected property owners.

Subd. 6. **Benefited property determined by viewers.** If, after the preliminary survey report hearing, a detailed survey is ordered and viewers are appointed, the viewers shall determine and report the benefits to all property from the outlet improvement including property drained or to be drained by the existing drainage system and proposed drainage project.

History: *1990 c 391 art 5 s 30*

103E.225 LATERALS.

Subdivision 1. **Petition.** (a) Persons that own property in the vicinity of an existing drainage system may petition for a lateral that connects their property with the drainage system. The petition must be signed by at least 26 percent of the owners of the property or by the owners of at least 26 percent of the area of the property that the lateral passes over. The petition must be filed with the auditor, or for property in more than one county, the petition must be filed with the auditor of the county with the largest property area to be passed over by the lateral. The petition must:

(1) describe in general terms the starting point, general course, and terminus of the proposed lateral;

(2) describe the property traversed by the lateral including the names and addresses of the property owners from records in the county assessor's office;

(3) state the necessity to construct the lateral;

(4) state that, if constructed, the lateral will be of public benefit and utility and promote the public health;

(5) request that the lateral be constructed and connected with the drainage system; and

(6) provide that the petitioners will pay all costs incurred if the proceedings are dismissed or if a contract for the construction of the lateral is not awarded.

(b) The petitioners shall give the bond required by section 103E.202, subdivision 5.

Subd. 2. **Establishment procedure.** After the petition is filed, the procedure to establish and construct the lateral is the same as that provided in this chapter to establish a drainage project.

Subd. 3. **Authority necessary for property not assessed.** A lateral may not be constructed to drain property that is not assessed benefits for the existing drainage system until express authority for the use of the existing drainage system as an outlet for the lateral has been obtained under section 103E.401.

History: *1990 c 391 art 5 s 31*

103E.227 IMPOUNDING, REROUTING, AND DIVERTING DRAINAGE SYSTEM WATERS.

Subdivision 1. **Petition.** (a) To conserve and make more adequate use of our water resources or to incorporate wetland or water quality enhancing elements as authorized by section 103E.011, subdivision 5, 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 to impound, reroute, or divert drainage system waters for beneficial use.

(b) If the drainage system is under the jurisdiction of a county drainage authority, the petition must be filed with the auditor of the county. If the drainage system is under the jurisdiction of a joint county drainage authority, the petition must be filed with the county having the largest area of property in the drainage system, where the primary drainage system records are kept, and a copy of the petition must be submitted to the auditor of each of the other counties participating in the joint county drainage authority. If the system is under the jurisdiction of a watershed district, the petition must be filed with the secretary of the district. The auditor of an affected county or the secretary of a watershed district must make a copy of the petition available to the public.

(c) The petition must contain the location of the installation, concept plans for the proposed project, and a map that identifies the areas likely to be affected by the project.

(d) The petition shall identify the sources of funds to be used to secure the necessary land rights and to construct the project and the amount and rationale for any drainage system funds requested.

(e) The petitioner or drainage authority must also acquire 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, a soil and water conservation district, a watershed district, or a municipality.

Subd. 3. **Procedure to establish project.** (a) After receiving the petition and bond, 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 at the hearing it appears from the engineer's report and other evidence presented that the project will be of a public or private benefit and that it will not impair the utility of the drainage system or deprive affected landowners of its benefit, the drainage authority shall make an order modifying the drainage system, to include the amount, if any, of drainage system funds approved for the project at the discretion of the drainage authority, and issue an order authorizing the project.

Subd. 4. **Permits and flowage easements required.** Before installing or constructing the project, the petitioner or drainage authority shall obtain all required permits and all necessary rights-of-way and flowage easements from owners of land to be affected by it.

Subd. 5. **Construction, operation, maintenance, and repair responsibilities.** The order of the drainage authority modifying the drainage system must identify the parties responsible for construction, operation, and maintenance of the drainage system modification and the amount, if any, of drainage system funds for the project. If the part of the drainage system located within the project boundaries is in need of repairs, the petitioner's engineer shall estimate the cost at the time of petition of these separable repairs. The drainage authority shall consider the separable repair costs that will be avoided as a result of the petitioned project, as well as any other benefits of the project to the drainage system, when determining whether or how much to contribute to the petitioned project.

History: *1990 c 391 art 5 s 32; 2010 c 298 s 3; 2013 c 4 s 10*

103E.231 DISMISSING OR DELAYING PROCEEDINGS; PETITIONERS.

Subdivision 1. **Dismissal.** (a) A proceeding under this chapter may be dismissed by a majority of the petitioners if they own at least 60 percent of the area owned by all of the petitioners as described in the petition.

(b) The proceeding may be dismissed at any time before the proposed drainage project is established after payment of the cost of the proceeding. If the costs cannot be collected, each and all petitioners are liable for unpaid assessments. The drainage authority shall determine and assess the cost of the proceeding against the persons liable. After the proceeding is dismissed any other action on the proposed drainage project must begin with a new petition.

Subd. 2. **Delay.** The drainage authority may delay drainage proceedings and drainage project construction under this chapter if a majority of the petitioners petition for a delay and the drainage authority holds a hearing on the petition. The delay may be for a period determined by the drainage authority. The drainage authority shall determine the cost of the proceedings up to the time the proceedings are delayed and when the costs are to be paid. The costs may include interest on the costs due.

History: *1990 c 391 art 5 s 33*

103E.235 DRAINAGE SYSTEM IN TWO OR MORE COUNTIES.

Subdivision 1. **Designation.** A petition for a proposed drainage project in two or more counties must be designated as a joint county drainage system with a number assigned by the auditor of the county with the largest area of property in the drainage system.

Subd. 2. **Joint county drainage authority.** The board where a petition for a proposed joint county drainage project is filed shall notify the board of each county where property is affected by the drainage system and request the boards to meet jointly and consider the petition. The boards shall select five of their members at the meeting to be the drainage authority. At least one member must be from each board. The drainage authority shall be known as the joint county drainage authority with a joint county drainage project or system number. A vacancy in the membership of the joint county drainage authority must be filled by joint action of the boards.

Subd. 3. **Transfer of drainage systems to watershed districts not affected.** This section does not affect the transfer of a drainage system to the board of managers of a watershed district under chapter 103D.

History: *1990 c 391 art 5 s 34*

103E.238 COUNTY ATTORNEY REVIEW OF PETITION AND BOND.

The county attorney must review each petition and bond filed with the county to determine if it meets the requirement of the proceedings for which it is intended. The county attorney must review the petition and bond within 30 days after it is filed. The county attorney must:

(1) refer the petition and bond back to the petitioners if it does not meet the requirements, with the county attorney's opinion describing the deficiencies of the petition; or

(2) refer the petition to the drainage authority.

History: *1990 c 391 art 5 s 35*

PRELIMINARY SURVEY AND HEARING

103E.241 ENGINEER.

Subdivision 1. **Appointment.** Within 30 days after receiving a petition and bond from the county attorney, the drainage authority shall, by order, appoint an engineer to make a preliminary survey within a prescribed time. The engineer must be the county highway engineer of a county where the affected property is located or a professional engineer registered under state law. The engineer is the engineer for the drainage project throughout the proceeding and construction unless otherwise ordered. Each appointed engineer must file an oath and bond. The engineer may be removed by the drainage authority at any time. If the engineer position is vacant, the drainage authority shall appoint another engineer as soon as possible.

Subd. 2. **Oath; bond.** An appointed engineer must subscribe to an oath to faithfully perform the assigned duties in the best manner possible and file a bond with the auditor. Within ten days after being appointed, the drainage authority shall set an amount of at least $5,000 for the bond. The bond must have adequate surety and be payable to the county where the petition is filed, or for a proposed joint county drainage project to all counties in the petition. The bond must be conditioned to pay any person or the drainage authority for damages and injuries resulting from negligence of the engineer while the engineer is acting in the proceedings or construction and provide that the engineer will diligently and honestly perform the engineer's duties. The

bond is subject to approval by the auditor. The aggregate liability of the surety for all damages may not exceed the amount of the bond.

Subd. 3. **Assistants; compensation.** The engineer may appoint assistant engineers and hire help necessary to complete the engineer's duties. The engineer is responsible for the assistant engineers and may remove them. The compensation of the engineer, assistant engineers, and other employees is provided by section 103E.645.

Subd. 4. **Engineer's reports.** The engineer shall make an expense report every two weeks after the beginning of the engineer's work until the construction contract is awarded. The report must show costs incurred by the engineer and expenses incurred under the engineer's direction relating to the proceeding, and include the names of the engineer, engineer assistants, and employees and the time each was employed, and every item of expense incurred by the engineer. The engineer must file this report with the auditor as soon as possible and may not incur expenses for the proceeding greater than the petitioners' bond.

Subd. 5. **Consulting engineer.** After the engineer is appointed and before construction of the drainage project is finished, the drainage authority may employ an engineer as a consulting engineer for the proceeding and construction. A consulting engineer shall advise the engineer and drainage authority on engineering matters and problems that may arise related to the proceeding and construction of the drainage project. The drainage authority shall determine the compensation for the consulting engineer.

History: *1990 c 391 art 5 s 36*

103E.245 PRELIMINARY SURVEY AND PRELIMINARY SURVEY REPORT.

Subdivision 1. **Survey.** The engineer shall proceed promptly to:

(1) examine the petition and order;

(2) make a preliminary survey of the area likely to be affected by the proposed drainage project to enable the engineer to determine whether the proposed drainage project is necessary and feasible with reference to the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1;

(3) examine and gather information related to determining whether the proposed drainage project substantially affects areas that are public waters; and

(4) if the proposed drainage project requires construction of an open channel, examine the nature and capacity of the outlet and any necessary extension.

Subd. 2. **Limitation of survey.** The engineer shall restrict the preliminary survey to the drainage area described in the petition, except that to secure an outlet the engineer may run levels necessary to determine the distance for the proper fall of the water. The preliminary survey must consider the impact of the proposed drainage project on the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1. The drainage authority may have other areas surveyed after:

(1) giving notice by mail of a hearing to survey additional areas, to be held at least ten days after the notice is mailed, to the petitioners and persons liable on the petitioners' bond;

(2) holding the hearing;

(3) obtaining consent of the persons liable on the petitioners' bond; and

(4) ordering the additional area surveyed by the engineer.

Subd. 3. **Adopting federal project.** The engineer may approve and include as a part of the report, a project of the United States relating to drainage or flood control that is within the proposed drainage project area, and may accept data, plats, plans, or information relating to the project furnished by United States engineers. The engineer does not need to make the preliminary survey if the material furnished by the United States is sufficient for the engineer to make the preliminary survey report.

Subd. 4. **Preliminary survey report.** The engineer shall report the proposed drainage project plan or recommend a different practical plan. The report must give sufficient information, in detail, to inform the drainage authority on issues related to feasibility, and show changes necessary to make the proposed plan practicable and feasible including extensions, laterals, and other work. If the engineer finds the proposed drainage project in the petition is feasible and complies with the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1, the engineer shall include in the preliminary survey report a preliminary plan of the drainage project showing the proposed ditches, tile, laterals, and other improvements, the outlet of the project, the watershed of the drainage project or system, and the property likely to be affected and its known owners. The plan must show:

(1) the elevation of the outlet and the controlling elevations of the property likely to be affected referenced to standard sea level datum, if practical;

(2) the probable size and character of the ditches and laterals necessary to make the plan practicable and feasible;

(3) the character of the outlet and whether it is sufficient;

(4) the probable cost of the drains and improvements shown on the plan;

(5) all other information and data necessary to disclose the practicability, necessity, and feasibility of the proposed drainage project;

(6) consideration of the drainage project under the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1; and

(7) other information as ordered by the drainage authority.

History: *1990 c 391 art 5 s 37; 2014 c 164 s 5-7*

103E.251 FILING PRELIMINARY SURVEY REPORT.

The engineer shall file the completed preliminary survey report in duplicate with the auditor. The auditor shall send one copy of the report to the director. If the proposed drainage project involves a joint county drainage project or system, a copy of the report must be filed with the auditor of each affected county.

History: *1990 c 391 art 5 s 38*

103E.255 COMMISSIONER'S PRELIMINARY ADVISORY REPORT.

The commissioner shall make a preliminary advisory report to the drainage authority with an opinion about the adequacy of the preliminary survey report. The commissioner shall state any additional investigation and evaluation that should be done relating to public waters that may be affected and environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1, and cite specific portions of the preliminary survey report that are determined inadequate. The commissioner shall file an

initial preliminary advisory report with the auditor before the date of the preliminary hearing. The commissioner may request additional time for review and evaluation of the preliminary survey report if additional time is necessary for proper evaluation. A request for additional time for filing the commissioner's preliminary advisory report may not be made more than five days after the date of the notice by the auditor that a date is to be set for the preliminary hearing. An extension of time may not exceed two weeks after the date of the request.

History: *1990 c 391 art 5 s 39; 2014 c 164 s 8*

103E.261 PRELIMINARY HEARING.

Subdivision 1. **Notice.** When the preliminary survey report is filed, the auditor shall promptly notify the drainage authority. The drainage authority in consultation with the auditor shall set a time, by order, not more than 30 days after the date of the order, for a hearing on the preliminary survey report. At least ten days before the hearing, the drainage authority after consulting with the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the proposed drainage project in the preliminary survey report.

Subd. 2. **Hearing.** The engineer shall attend the preliminary hearing and provide necessary information. The petitioners and all other interested parties may appear and be heard. The commissioner's advisory report on the preliminary plan must be publicly read and included in the record of proceedings.

Subd. 3. **Sufficiency of petition.** (a) The drainage authority shall first examine the petition and determine if it meets the legal requirements.

(b) If the petition does not meet the legal requirements of this chapter, the hearing shall be adjourned until a specified date by which the petitioners must resubmit the petition. The petition must be referred back to the petitioners who, by unanimous action, may amend the petition. The petitioners may obtain signatures of additional property owners as added petitioners.

(c) When the hearing is reconvened, if the petition is not resubmitted or does not meet the legal requirements, the proceedings must be dismissed.

Subd. 4. **Dismissal.** (a) The drainage authority shall dismiss the proceedings if it determines that:

(1) the proposed drainage project is not feasible;

(2) the adverse environmental impact is greater than the public benefit and utility after considering the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1, and the engineer has not reported a plan to make the proposed drainage project feasible and acceptable;

(3) the proposed drainage project is not of public benefit or utility; or

(4) the outlet is not adequate.

(b) If the proceedings are dismissed, any other action on the proposed drainage project must begin with a new petition.

Subd. 5. **Findings and order.** (a) The drainage authority shall state, by order, its findings and any changes that must be made in the proposed drainage project from those outlined in the petition, including changes necessary to minimize or mitigate adverse impact on the environment, if it determines that:

(1) the proposed drainage project outlined in the petition, or modified and recommended by the engineer, is feasible;

(2) there is necessity for the proposed drainage project;

(3) the proposed drainage project will be of public benefit and promote the public health, after considering the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1; and

(4) the outlet is adequate.

(b) Changes may be stated by describing them in general terms or filing a map that outlines the changes in the proposed drainage project with the order. The order and accompanying documents must be filed with the auditor.

Subd. 6. **Outlet; existing drainage system.** If the outlet is an existing drainage system, the drainage authority may determine that the outlet is adequate and obtain permission to use the existing drainage system as an outlet. The drainage authority shall assign a number to the proposed drainage project and proceed under section 103E.401 to act in behalf of the proposed drainage project.

Subd. 7. **Effect of findings.** (a) For all further proceedings, the order modifies the petition and the order must be considered with the petition.

(b) The findings and order of the drainage authority at the preliminary hearing are conclusive only for the signatures and legal requirements of the petition, the nature and extent of the proposed plan, and the need for a detailed survey, and only for the persons or parties shown by the preliminary survey report as likely to be affected by the proposed drainage project. All questions related to the practicability and necessity of the proposed drainage project are subject to additional investigation and consideration at the final hearing.

History: *1990 c 391 art 5 s 40; 2014 c 164 s 9,10*

DETAILED SURVEY AND VIEWING

103E.265 ORDER FOR DETAILED SURVEY AND SURVEY REPORT.

Subdivision 1. **Order.** When the preliminary hearing order is filed with the auditor, the drainage authority shall order the engineer to make a detailed survey with plans and specifications for the proposed drainage project and submit a detailed survey report to the drainage authority as soon as possible.

Subd. 2. **Waiver.** The drainage authority may waive the detailed survey order and the detailed survey if it determines that adequate data, plans, and specifications have been furnished by a United States engineer.

History: *1990 c 391 art 5 s 41*

103E.271 DETAILED SURVEY.

Subdivision 1. **Survey and examination.** When an order for a detailed survey is filed, the engineer shall proceed to survey the lines of the proposed drainage project in the preliminary hearing order, and survey and examine affected property.

Subd. 2. **Survey requirements.** All drainage lines must be surveyed in 100-foot stations and elevations must be based on standard sea level datum, if practical. Benchmarks must be established on permanent

objects along the drainage line, not more than one mile apart. Field notes made by the engineer must be entered in bound field books and preserved by the engineer until they are filed with the auditor.

History: *1990 c 391 art 5 s 42*

103E.275 ENGINEER'S VARIANCE FROM DRAINAGE AUTHORITY ORDER.

(a) In planning a proposed drainage project, the engineer may vary from the starting point and the line and plan described by the preliminary hearing order if necessary to drain the property likely to be assessed in the proposed drainage project.

(b) The engineer may:

(1) survey and recommend the location of additional necessary ditches and tile;

(2) where better results will be accomplished and more desirable outlets secured, provide for the extension of the outlet; and

(3) provide for different parts of the drainage to flow in different directions with more than one outlet.

(c) The open ditches do not have to connect if they drain the area to be affected in the petition. The variance must be reported with similar information in the detailed survey report.

History: *1990 c 391 art 5 s 43*

103E.281 SOIL SURVEY.

The engineer shall make a soil survey if: (1) the drainage authority orders a soil survey; (2) the commissioner requests a soil survey; or (3) the engineer determines a soil survey is necessary. The soil survey must show the nature and character of the soil in the proposed drainage project area and include the engineer's findings from the soil survey. The report on the soil survey must be included in the detailed survey report or reported and filed separately before the final hearing.

History: *1990 c 391 art 5 s 44*

103E.285 DETAILED SURVEY REPORT.

Subdivision 1. **Report and information required.** The engineer shall prepare a detailed survey report that includes the data and information in this section.

Subd. 2. **Map.** A complete map of the proposed drainage project and drainage system must be drawn to scale, showing:

(1) the terminus and course of each drain and whether it is ditch or tile, and the location of other proposed drainage works;

(2) the location and situation of the outlet;

(3) the watershed of the proposed drainage project and the subwatershed of main branches, if any, with the location of existing highway bridges and culverts;

(4) all property affected, with the names of the known owners;

(5) public roads and railways affected;

(6) the outline of any lake basin, wetland, or public water body affected;

(7) other physical characteristics of the watershed necessary to understand the proposed drainage project and the affected drainage system; and

(8) the area to be acquired to maintain a grass strip under section 103E.021.

Subd. 3. **Profile of drainage lines.** A profile of all proposed drainage lines must be presented showing, graphically, the elevation of the ground and gradient at each 100-foot station, and the station number at each section line and at each property line. The profile must show information necessary to understand it, including, in the case of an open ditch, the bottom width and side slope and, in the case of a tiled ditch, the size of tile.

Subd. 4. **Bridge and culvert plans.** Plans for private bridges and culverts to be constructed by and as a part of the proposed drainage project and plans for other works to be constructed for the proposed drainage project must be presented. A list must be made that shows the required minimum hydraulic capacity of bridges and culverts at railways and highways that cross ditches, and at other prospective ditch crossings where bridges and culverts are not specified to be constructed as part of the proposed drainage project. Plans and estimates of the cost of highway bridges and culverts must be prepared for the viewers to determine benefits and damages.

Subd. 5. **Tabular statement of excavation, construction, and cost.** A tabular statement must be prepared showing:

(1) the number of cubic yards of excavation, linear feet of tile, and average depth on each tile line;

(2) the bridges, culverts, and works to be constructed under the plans for the drainage project; and

(3) the estimated unit cost of each item, a summary of the total cost, and an estimate of the total cost of completing the proposed drainage project that includes supervision and other costs.

Subd. 6. **Right-of-way acreage.** The acreage must be shown that will be taken for ditch right-of-way on each government lot, 40-acre tract, or fraction of a lot or tract under separate ownership. The ditch right-of-way must include the area to be taken to maintain a grass strip under section 103E.021.

Subd. 7. **Drain tile; specifications.** Specifications for drain tile must be given that comply with the requirements of the American Society for Testing Materials standard specifications for drain tile, except where the engineer requires tile of a special, higher quality for certain tile depths or soil conditions.

Subd. 8. **Soil survey report.** If required under section 103E.281, the report on the soil survey must be included in the detailed survey report or submitted and filed separately before the final hearing.

Subd. 9. **Recommendation to divide work.** If construction of the proposed drainage project would be more economical, the engineer may recommend:

(1) that the work be divided into sections and contracted separately;

(2) that the ditch and tile work or tile and labor on the project be contracted separately; or

(3) the time and manner for the work to be completed.

Subd. 10. **Other information on practicability and necessity of drainage project.** Other data and information to inform the drainage authority of the practicability and necessity of the proposed drainage project must be made available including a comprehensive examination and the recommendation by the engineer regarding the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1.

Subd. 11. **Outlet in another state.** If an outlet is only practical in an adjoining state, the engineer shall describe the right-of-way needed and the cost of obtaining the right-of-way and constructing the outlet.

Subd. 12. **Completion.** The engineer shall prepare the detailed survey and complete the detailed survey report, in duplicate, as specified in this section.

History: *1990 c 391 art 5 s 45; 2014 c 164 s 11*

103E.291 FILING DETAILED SURVEY REPORT.

The engineer must file the detailed survey report with the auditor where the proceedings are pending, and the auditor must deliver a copy of the detailed survey report to the commissioner. The engineer must also file copies of the detailed survey report with the auditors of any affected counties.

History: *1990 c 391 art 5 s 46; 2025 c 20 s 76*

103E.295 REVISING ENGINEER'S DETAILED SURVEY REPORT AFTER ACCEPTANCE.

After the final acceptance of the proposed drainage project, the engineer shall revise the plan, profiles, and designs of structures to show the drainage project as actually constructed on the original tracings. The engineer shall file the revised detailed survey report with the auditor. The auditor shall forward the original or a copy to the director as a permanent record.

History: *1990 c 391 art 5 s 47*

103E.301 COMMISSIONER'S FINAL ADVISORY REPORT.

(a) The commissioner shall examine the detailed survey report and within 30 days of receipt make a final advisory report to the drainage authority. The final advisory report must state whether the commissioner:

(1) finds the detailed survey report is incomplete and not in accordance with the provisions of this chapter, specifying the incomplete or nonconforming provisions;

(2) approves the detailed survey report as an acceptable plan to drain the property affected;

(3) does not approve the plan and recommendations for changes;

(4) finds the proposed drainage project is not of public benefit or utility under the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1, specifying the facts and evidence supporting the findings; or

(5) finds a soil survey is needed, and, if it is, makes a request to the engineer to make a soil survey.

(b) The commissioner shall direct the final advisory report to the drainage authority and file it with the auditor.

History: *1990 c 391 art 5 s 48; 2014 c 164 s 12*

103E.305 VIEWERS' APPOINTMENT AND QUALIFICATION.

Subdivision 1. **Appointment.** When the order for a detailed survey is made, the drainage authority shall, by order, appoint viewers consisting of three disinterested residents of the state qualified to assess benefits and damages. The drainage authority may establish qualifications for viewers.

Subd. 2. **Auditor's order for first meeting.** Within five days after the detailed survey report is filed, the auditor shall, by order, designate the time and location for the first meeting of the viewers and issue a copy to the viewers of the auditor's order and a certified copy of the order appointing the viewers.

Subd. 3. **First meeting.** At the first meeting and before beginning their duties, the viewers shall subscribe to an oath to faithfully perform their duties. If an appointed viewer does not qualify for any reason, the auditor shall designate another qualified person to take the disqualified viewer's place.

History: *1990 c 391 art 5 s 49*

103E.311 VIEWER DUTIES.

The viewers, with or without the engineer, shall determine the benefits and damages to all property affected by the proposed drainage project and make a viewers' report.

History: *1990 c 391 art 5 s 50*

103E.315 ASSESSING DRAINAGE BENEFITS AND DAMAGES.

Subdivision 1. **State land.** Property owned by the state must have benefits and damages reported in the same manner as taxable lands subject to the provisions relating to conservation areas in section 103E.025.

Subd. 2. **Government property.** The viewers shall report the benefits and damages to the state, counties, and municipalities from the proposed drainage project. The property within the jurisdiction of a municipality, whether owned by the municipality or by private parties, may be assessed as benefits and damages to the municipality.

Subd. 3. **Public roads.** If a public road or street is benefited or damaged, the state, county, or political subdivision that is the governmental unit with the legal duty of maintaining the road or street, must be assessed benefits or damages to the road or street, except that benefits and damages for bridges and culverts must be assessed to the governmental unit that has the legal duty to construct and maintain the bridge or culvert under section 103E.525.

Subd. 4. **Railway and other utilities.** The viewers shall report the benefits and damages to railways and other utilities, including benefits and damages to property used for railway or other utility purposes.

Subd. 5. **Extent and basis of benefits.** (a) The viewers shall determine the amount of benefits to all property within the watershed, whether the property is benefited immediately by the construction of the proposed drainage project or the proposed drainage project can become an outlet for drainage, makes an outlet more accessible, or otherwise directly benefits the property. The benefits may be based on:

(1) an increase in the current market value of property as a result of constructing the project;

(2) an increase in the potential for agricultural production as a result of constructing the project; or

(3) an increased value of the property as a result of a potential different land use.

(b) Benefits and damages may be assessed only against the property benefited or damaged or an easement interest in property for the exclusive use of the surface of the property.

Subd. 6. **Benefits for proposed drainage project as outlet.** (a) If the proposed drainage project furnishes an outlet to an existing drainage system and benefits the property drained by the existing system, the viewers shall equitably determine and assess:

(1) the benefits of the proposed drainage project to each tract or lot drained by the existing drainage system;

(2) a single amount as an outlet benefit to the existing drainage system; or

(3) benefits on a watershed acre basis.

(b) Assessments that conform with the provisions in this subdivision are valid. If a single sum is assessed as an outlet benefit, the lien for the assessment must be prorated on all property benefited by the existing drainage system in proportion to the benefits determined for the existing drainage system.

(c) Within the watershed that drains to the area where a project is located, the viewers may assess outlet benefits on:

(1) property that is responsible for increased sedimentation in downstream areas of the watershed; and

(2) property that is responsible for increased drainage system maintenance or increased drainage system capacity because the natural drainage on the property has been altered or modified to accelerate the drainage of water from the property.

Subd. 7. **Benefits for project that increases drainage capacity.** If part of a drainage project increases drainage capacity and the increased capacity is necessary due to increased drainage in the project watershed rather than increased drainage in a specific area, the viewers may assess benefits on property in the project watershed on a pro rata basis.

Subd. 8. **Extent of damages.** (a) Damages to be paid may include:

(1) the fair market value of the property required for the channel of an open ditch and the permanent strip of perennial vegetation under section 103E.021;

(2) the diminished value of a farm due to severing a field by an open ditch;

(3) loss of crop production during drainage project construction;

(4) the diminished productivity or land value from increased overflow; and

(5) costs to restore a perennial vegetative cover or structural practice existing under a federal or state conservation program adjacent to the permanent drainage system right-of-way and damaged by the drainage project.

(b) When damages are determined to acquire or otherwise provide compensation for buffer strips or alternative riparian water quality practices previously installed as required by section 103F.48, subdivision 3, the viewers and drainage authority shall consider the land use prior to buffer strip or alternative practice installation in determining the fair market value of the property under paragraph (a), clause (1).

History: *1990 c 391 art 5 s 51; 2007 c 57 art 1 s 112; 2016 c 85 s 3*

103E.321 VIEWERS' REPORT.

Subdivision 1. **Requirements.** The viewers' report must show, in tabular form, for each lot, 40-acre tract, and fraction of a lot or tract under separate ownership that is benefited or damaged:

(1) a description of the lot or tract, under separate ownership, that is benefited or damaged;

(2) the names of the owners as they appear on the current tax records of the county and their addresses;

(3) the number of acres in each tract or lot;

(4) the number and value of acres added to a tract or lot by the proposed drainage of public waters;

(5) the damage, if any, to riparian rights;

(6) the damages paid for the permanent strip of perennial vegetation under section 103E.021;

(7) the total number and value of acres added to a tract or lot by the proposed drainage of public waters, wetlands, and other areas not currently being cultivated;

(8) the number of acres and amount of benefits being assessed for drainage of areas which before the drainage benefits could be realized would require a public-waters-work permit to work in public waters under section 103G.245 to excavate or fill a navigable water body under United States Code, title 33, section 403, or a permit to discharge into waters of the United States under United States Code, title 33, section 1344;

(9) the number of acres and amount of benefits being assessed for drainage of areas that would be considered conversion of a wetland under United States Code, title 16, section 3821, if the area was placed in agricultural production;

(10) the amount of right-of-way acreage required; and

(11) the amount that each tract or lot will be benefited or damaged.

Subd. 2. **Benefits and damages statement.** (a) The viewers' report must include a benefits and damages statement that shows for each property owner how the benefits or damages for similar tracts or lots were determined. For similar tracts or lots the report must describe:

(1) the existing land use, property value, and economic productivity;

(2) the potential land use, property value, and economic productivity after the drainage project is constructed; and

(3) the benefits or damages from the proposed drainage project.

(b) The soil and water conservation districts and county assessors shall cooperate with viewers to provide information required under paragraph (a).

Subd. 3. **Disagreement of viewers.** If the viewers are unable to agree, each viewer shall separately state findings on the disputed issue. A majority of the viewers may perform the required duties under this chapter.

Subd. 4. **Filing.** When the viewers complete their duties, they shall file the viewers' report with the auditor of each affected county. A detailed statement must be filed with the viewers' report showing the actual time the viewers were engaged and the costs incurred. The viewers shall perform their duties and complete the viewers' report as soon as possible after their first meeting.

History: *1990 c 391 art 5 s 52; 2007 c 57 art 1 s 113*

103E.323 PROPERTY OWNERS' REPORT.

Subdivision 1. **Report.** Within 30 days after the viewers' report is filed, the auditor must make a property owners' report from the information in the viewers' report showing for each property owner benefited or damaged by the proposed drainage project:

(1) the name and address of the property owner;

(2) each lot or tract and its area that is benefited or damaged;

(3) the total number and value of acres added to a tract or lot by the proposed drainage of public waters, wetlands, and other areas not currently being cultivated;

(4) the number of acres and amount of benefits being assessed for drainage of areas which before the drainage benefits could be realized would require a public-waters-work permit to work in public waters under section 103G.245 to excavate or fill a navigable water body under United States Code, title 33, section 403, or a permit to discharge into waters of the United States under United States Code, title 33, section 1344;

(5) the number of acres and amount of benefits being assessed for drainage of areas that would be considered conversion of a wetland under United States Code, title 16, section 3821, if the area was placed in agricultural production;

(6) the damage, if any, to riparian rights;

(7) the amount of right-of-way acreage required;

(8) the amount that each tract or lot will be benefited or damaged;

(9) the net damages or benefits to each property owner;

(10) the estimated cost to be assessed to the property owner based on the cost of the drainage project in the engineer's detailed survey report; and

(11) a copy of the benefits and damages statement under section 103E.321, subdivision 2, paragraph (a), relating to the property owner.

Subd. 2. **Mailing.** The auditor must mail a copy of the property owners' report to each owner of property affected by the proposed drainage project, and may prepare and file an affidavit of mailing.

History: *1990 c 391 art 5 s 53*

FINAL HEARING

103E.325 FINAL HEARING NOTICE.

Subdivision 1. **Time.** Promptly after the filing of the viewers' report and the commissioner's final advisory report, the drainage authority after consulting with the auditor shall set a time and location for the final hearing on the petition, the detailed survey report, and the viewers' report. The hearing must be set 25 to 50 days after the date of the final hearing notice.

Subd. 2. **Notice.** (a) The final hearing notice must state:

(1) that the petition is pending;

(2) that the detailed survey report is filed;

(3) that the viewers' report is filed;

(4) the time and place set for the final hearing;

(5) a brief description of the proposed drainage project and affected drainage system, giving in general terms the starting point, terminus, and general course of the main ditch and branches;

(6) a description of property benefited and damaged, and the names of the owners of the property; and

(7) the municipal and other corporations affected by the proposed drainage project as shown by the detailed survey report and viewers' report.

(b) Names may be listed in a narrative form, and property affected may be separately listed in narrative form by governmental sections or otherwise.

(c) For a joint county proceeding, separate notice may be prepared for each county affected, showing the portion of the proposed drainage project and the names and descriptions of affected property in the county.

Subd. 3. **Method of notice.** The auditor shall notify the drainage authority, auditors of affected counties, and all interested persons of the time and location of the final hearing by publication, posting, and mail. A printed copy of the final hearing notice for each affected county must be posted at least three weeks before the date of the final hearing at the front door of the courthouse in each county. Within one week after the first publication of the notice, the auditor shall give notice by mail of the time and location of the final hearing to the commissioner, all property owners, and others affected by the proposed drainage project and listed in the detailed survey report and the viewers' report.

Subd. 4. **Defective notice.** If the final hearing notice is not given or is not legally given, the auditor shall properly publish, post, and mail the notice or provide the notice under the provisions to cure defective notice in section 103E.035.

History: *1990 c 391 art 5 s 54; 2025 c 20 s 77*

103E.331 JURISDICTION OF PROPERTY BY DRAINAGE AUTHORITY.

After the final hearing notice is given, the drainage authority has jurisdiction of all property described in the detailed survey report and viewers' report, of the persons and municipalities named in the reports, and of persons having an interest in a mortgage, lien, or encumbrance against property described in the reports.

History: *1990 c 391 art 5 s 55*

103E.335 PROCEEDINGS AT FINAL HEARING.

Subdivision 1. **Consideration of petition and reports.** At the time and location for the final hearing specified in the notice, or after the hearing adjourns, the drainage authority shall consider the petition for the drainage project, with all matters pertaining to the detailed survey report, the viewers' report, and the commissioner's final advisory report. The drainage authority shall hear and consider the testimony presented by all interested parties. The engineer or the engineer's assistant and at least one viewer shall be present. The director may appear and be heard. If the director does not appear personally, the final advisory report shall be read during the hearing. The final hearing may be adjourned and reconvened as is necessary.

Subd. 2. **Changes in drainage plan.** If the drainage authority determines that the general plan reported by the engineer may be improved by changes, or that the viewers have made an inequitable assessment of benefits or damages to any property, the drainage authority may amend the detailed survey report or the viewers' report, and make necessary and proper findings in relation to the reports. The drainage authority may resubmit matters to the engineer or to the viewers for immediate consideration. The engineer or viewers

shall proceed promptly to reconsider the resubmitted matters and shall make and file the amended findings and reports. The amended reports are a part of the original reports.

Subd. 3. **Reexamination.** If the drainage authority determines that property not included in the notice should be included and assessed or that the engineer or viewers, or both, should reexamine the proposed drainage project or the property benefited or damaged by the system, the drainage authority may resubmit the reports to the engineer and viewers. If a report is resubmitted, the final hearing may be continued as is necessary to make the reexamination and reexamination report. If the reexamination report includes property not included in the original report, the drainage authority may, by order, adjourn the hearing and direct the auditor to serve or publish, post, and mail a final hearing notice with reference to all property not included in the previous notice. The jurisdiction of the drainage authority continues in the property given proper notice, and new or additional notice is not required for that property.

History: *1990 c 391 art 5 s 56*

103E.341 DRAINAGE AUTHORITY FINAL ORDER.

Subdivision 1. **Dismissal of proceedings.** The drainage authority must dismiss the proceedings and petition, by order, if it determines that:

(1) the benefits of the proposed drainage project are less than the total cost, including damages awarded;

(2) the proposed drainage project will not be of public benefit and utility; or

(3) the proposed drainage project is not practicable after considering the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1.

Subd. 2. **Establishing proposed drainage project.** (a) The drainage authority shall establish, by order, a proposed drainage project if it determines that:

(1) the detailed survey report and viewers' report have been made and other proceedings have been completed under this chapter;

(2) the reports made or amended are complete and correct;

(3) the damages and benefits have been properly determined;

(4) the estimated benefits are greater than the total estimated cost, including damages;

(5) the proposed drainage project will be of public utility and benefit, and will promote the public health; and

(6) the proposed drainage project is practicable.

(b) The order must contain the drainage authority's findings, adopt and confirm the viewers' report as made or amended, and establish the proposed drainage project as reported and amended.

History: *1990 c 391 art 5 s 57; 2014 c 164 s 13*

103E.345 APPORTIONING COST FOR JOINT COUNTY DRAINAGE SYSTEMS.

For joint county proceedings, the auditor where the petition is filed shall file a certified copy of the viewers' report with the auditor of each affected county within 20 days after the date of the final order establishing the system. When the final order to establish the drainage project is made, the drainage authority shall determine and order the percentage of the cost of the drainage project to be paid by each affected

county. The cost shall be in proportion to the benefits received, unless there is a contrary reason. An auditor of an affected county may petition the drainage authority after the final order is made to determine and order the percentage of costs to be paid by the affected counties. The drainage authority shall hold a hearing five days after giving written notice to the auditor of each affected county. After giving the notice to the auditors of the affected counties, the drainage authority may, at any time that it is necessary, modify an order or make an additional order to allocate the cost among the affected counties.

History: *1990 c 391 art 5 s 58*

REDETERMINING BENEFITS

103E.351 REDETERMINING BENEFITS AND DAMAGES.

Subdivision 1. **Conditions to redetermine benefits and damages; appointing viewers.** (a) If the drainage authority determines that the benefits or damages of record determined in a drainage proceeding do not reflect reasonable present-day land values or that the benefited or damaged areas have changed, the drainage authority may appoint three viewers to redetermine and report the benefits and damages and the benefited and damaged areas.

(b) If more than 26 percent of the owners of property or owners of 26 percent of the property that is benefited or damaged by a drainage system petition to redetermine benefits and damages, the drainage authority must make a determination on the petition according to paragraph (a).

Subd. 2. **Hearing and procedure.** (a) The redetermination of benefits and damages must proceed as provided for viewers and the viewers' report in sections 103E.311 to 103E.321.

(b) The auditor or secretary must prepare a property owners' report from the viewers' report. A copy of the property owners' report must be mailed to each owner of property affected by the drainage system.

(c) The drainage authority must hold a final hearing on the report and confirm the benefits and damages and benefited and damaged areas. The final hearing must proceed as provided under sections 103E.325, 103E.335, and 103E.341.

Subd. 3. **Using redetermined benefits and damages.** The redetermined benefits and damages and the redetermined benefited and damaged areas must be used in place of the benefits and damages of record and the benefited and damaged areas of record in all subsequent proceedings relating to the drainage system.

Subd. 4. **Appeal.** A person aggrieved by the redetermination of benefits and damages and benefited and damaged areas may appeal from the order confirming the benefits and damages and benefited and damaged areas under section 103E.091.

History: *1990 c 391 art 5 s 59; 2019 c 24 s 4-6*

OUTLETS FOR DRAINAGE SYSTEMS

103E.401 USE OF DRAINAGE SYSTEM AS OUTLET.

Subdivision 1. **Drainage outlet proceedings when purchasing wetlands.** If the commissioner purchases wetlands under section 97A.145, the commissioner must recognize that when a majority of landowners or owners of a majority of the land in the watershed petition for a drainage outlet, the state should not interfere with or unnecessarily delay the drainage proceedings if the proceedings are conducted according to this chapter.

Subd. 2. **Express authority necessary.** After the construction of a drainage project, a public or private drainage system that drains property not assessed for benefits for the established drainage system may not be constructed to use the established drainage system as an outlet without obtaining express authority from the drainage authority having jurisdiction over the drainage system proposed to be used as the outlet. This section is applicable to the construction of a public or private drainage system that outlets water into an established drainage system regardless of the actual physical connection.

Subd. 3. **Petition.** A person seeking authority to use an established drainage system as an outlet must petition the drainage authority. When the petition is filed, the drainage authority in consultation with the auditor shall set a time and location for a hearing on the petition and shall give notice by mail and notice by publication of the hearing. The auditor must be paid the actual costs for the hearing notices by the petitioner.

Subd. 4. **Hearing.** At the hearing the drainage authority shall consider the capacity of the outlet drainage system. If express authority is given to use the drainage system as an outlet, the drainage authority shall state, by order, the terms and conditions for use of the established drainage system as an outlet and shall set the amount to be paid as an outlet fee. The order must describe the property to be benefited by the drainage system and must state the amount of benefits to the property for the outlet. The property benefited is liable for assessments levied after that time in the drainage system, on the basis of the benefits as if the benefits had been determined in the order establishing the drainage system.

Subd. 5. **Private drainage system; outlet fee required.** A private drainage system may not be constructed to use the established drainage system as an outlet until the outlet fee, set by order, is paid by the petitioner to the county treasurer where the petitioner's property is located.

Subd. 6. **Paying outlet fee.** The outlet fee for a proposed drainage project is a part of the cost of the proposed drainage project and is to be paid by assessment against the property benefited by the proposed drainage project, under section 103E.601, and credited to the established drainage system account.

Subd. 7. **Unauthorized outlet.** (a) The drainage authority must notify an owner of property where an unauthorized outlet into a drainage system is located and direct the property owner to block the outlet or otherwise make the outlet ineffective by a specified time. The outlet must be blocked and remain ineffective until:

(1) an outlet fee is paid, which is determined by the drainage authority based on the benefits received by the property for the period the unauthorized outlet was operational; and

(2) the drainage authority approves a petition for the outlet and establishes the outlet fee.

(b) If a property owner does not block or make the outlet ineffective after being notified, the drainage authority must issue an order to have the work performed to bring the outlet into compliance. After the work is completed, the drainage authority must send a statement to the auditor of the county where the property is located and to the property owner where the unauthorized outlet is located, containing the expenses incurred to bring the outlet into compliance and the outlet fee based on the benefits received by the property during the period the unauthorized outlet was operational.

Subd. 8. **Unauthorized outlet expenses; lien against property.** (a) The amount of the expenses and outlet fee is a lien in favor of the drainage authority against the property where the unauthorized outlet is located. The auditor must certify the expenses and outlet fee and enter the amount in the same manner as other drainage liens on the tax list for the following year. The amount must be collected in the same manner as real estate taxes for the property. The provisions of law relating to the collection of real estate taxes shall

be used to enforce payment of amounts due under this section. The auditor must include a notice of collection of unauthorized outlet compliance expenses with the tax statement.

(b) The amounts collected under this subdivision must be deposited in the drainage system account.

History: *1990 c 391 art 5 s 60; 2010 c 298 s 4*

103E.405 OUTLETS IN ADJOINING STATES.

In any drainage proceeding, at the hearing on the detailed survey report and viewers' report, if the drainage authority determines that a proper outlet for the drainage system does not exist except through property in an adjoining state, the drainage authority may adjourn the hearing. If the hearing is adjourned the drainage authority shall require the auditor or, for a joint county drainage system, the auditors of affected counties to procure an option to acquire the needed right-of-way at an expense not exceeding the estimated cost specified in the detailed survey report. The order establishing the drainage project may not be made until the option is procured. If the option is procured and the drainage project established, the option shall be exercised and the cost of the right-of-way shall be paid as a part of the cost of the drainage project.

History: *1990 c 391 art 5 s 61*

103E.411 DRAINAGE SYSTEM AS OUTLET FOR MUNICIPALITY.

Subdivision 1. **Petition.** A municipality may use a drainage system as an outlet for its municipal drainage system or the overflow from the system under the provisions of this section. The municipality must petition to the drainage authority to use the drainage system. The petition must:

(1) show the necessity for the use of the drainage system as an outlet;

(2) show that the use of the drainage system will be of public benefit and utility and promote the public health;

(3) be accompanied by a plat showing the location of the drainage system and the location of the municipal drainage system; and

(4) be accompanied by specifications showing the plan of connection from the municipal drainage system to the drainage system.

Subd. 2. **Approval by Pollution Control Agency.** The plan for connecting the municipal drainage system to the drainage system must be approved by the Pollution Control Agency.

Subd. 3. **Filing; notice.** (a) If proceedings to establish the drainage project to be used as an outlet are pending, the petition must be filed with the auditor. The municipal drainage system petition must be presented to the drainage authority at the final hearing to consider the detailed survey report and viewers' report. Notice of the municipal drainage system petition must be included in the final hearing notice.

(b) If the drainage system to be used as an outlet is established, the municipal drainage system petition must be filed with the auditor. When the petition is filed, the drainage authority in consultation with the auditor shall, by order, set a time and place for hearing on the petition. Notice of the hearing must be given by publication and by mailed notice to the auditor of each affected county.

Subd. 4. **Hearing and order.** (a) At the hearing the drainage authority may receive all evidence of interested parties for or against the granting of the petition. The drainage authority, by order, may authorize the municipality to use the drainage system as an outlet, subject to the conditions that are necessary and

proper to protect the rights of the parties and safeguard the interests of the general public, if the drainage authority determines:

(1) that a necessity exists for the use of the drainage system as an outlet for the municipal drainage system or the overflow from the system;

(2) that use of the drainage system will be of public utility and promote the public health; and

(3) that the proposed connection conforms to the requirements of the Pollution Control Agency and provides for the construction and use of proper disposal works.

(b) The drainage authority must, by order, make the municipality a party to the drainage proceedings and determine the benefits from using the drainage project or system as an outlet.

Subd. 5. **Benefits and assessments if drainage system established.** If the drainage system is established, the drainage authority must determine the amount the municipality must pay for the privilege of using the drainage system as an outlet. The amount must be paid to the affected counties and credited to the account of the drainage system used as an outlet. The municipality is liable for all subsequent liens and assessments for the repair and maintenance of the drainage system in proportion to the benefits, as though the benefits were determined in the order establishing the drainage system.

History: *1990 c 391 art 5 s 62*

CONSTRUCTING DRAINAGE PROJECT

103E.501 CONTRACT AND BOND.

Subdivision 1. **Preparation.** The county attorney, the engineer, and the attorney for the petitioners shall prepare the contract and bond. The contract and bond must include the provisions required by this chapter and section 574.26 for bonds given by contractors for public works and must be conditioned as provided by section 574.26 for the better security of the contracting counties and parties performing labor and furnishing material in performance of the contract. The prepared contract and bond must be attached and provided to the contractor for execution.

Subd. 2. **Contractor's bond.** The contractor shall file a bond with the auditor for an amount not less than 75 percent of the contract price of the work. The bond must have adequate surety and be approved by the auditor. The bond must provide that the surety for the bond is liable for all damages resulting from a failure to perform work under the contract, whether the work is resold or not, and that any person or political subdivision showing damages from the failure to perform work under the contract may maintain an action against the bond in their own names. Actions may be successive in favor of all persons injured, but the aggregate liability of the surety for all the damages may not exceed the amount of the bond. The surety is liable for the tile work guaranteed by the contractor. The contractor is considered a public officer and the bond an official bond within the meaning of section 574.24 construing the official bonds of public officers as security to all persons and providing for actions on the bonds by a party that is damaged.

Subd. 3. **Contract.** The contract must contain a specific description of the work to be done, either expressly or by reference to the plans and specifications, and must provide that the work must be done and completed as provided in the plans and specifications and subject to the inspection and approval of the engineer. The contract must provide that time is of the essence of the contract, and that if there is a failure to perform the work according to the terms of the contract within the time given in the original contract or as extended, the contractors shall forfeit and pay the affected counties an amount stated in the contract as

liquidated damages. The amount must be fixed by the auditor for each day that the failure of performance continues.

Subd. 4. **Contract provisions for changes during construction.** The contract must give the engineer the right, with the consent of the drainage authority, to modify the detailed survey report, plans, and specifications as the work proceeds and as circumstances require. The contract must provide that the increased cost resulting from the changes will be paid by the drainage authority to the contractor at a rate not greater than the amount for similar work in the contract. A change may not be made that will substantially impair the usefulness of any part of the drainage project or system, substantially alter its original character, or increase its total cost by more than ten percent of the total original contract price. A change may not be made that will cause the cost to exceed the total estimated benefits found by the drainage authority or that will cause any detrimental effects to the public interest under the environmental, land use, and multipurpose water management criteria in section 103E.015, subdivision 1.

Subd. 5. **Contract with federal unit.** If any portion of the work is to be done by the United States or an agency of the United States, a bond or contract is not necessary for that portion of the work, except that a contract must be made if the United States or its agencies require a contract with the local governmental units. The contract must contain the terms, conditions, provisions, and guaranties required by the United States or its agencies to proceed with the work.

Subd. 6. **Tile work; separate contract; guarantee.** If tile is used to construct any part of the drainage project, a majority of the persons affected may file a written request with the auditor to contract the tile work separately. The request must be filed before advertising for the sale of the work has begun. If the request is properly made, the tile work must be contracted separately. The contractor must guarantee the tile work under the contract for three years after its completion against any fault or negligence on the part of the contractor. The advertisement for bids must include this requirement.

Subd. 7. **Modifying contract by agreement.** This chapter does not prevent the persons with property affected by the construction of a drainage project from uniting in a written agreement with the contractor and the surety of the contractor's bond to modify the contract as to the manner or time when any portion of the drainage project is constructed, if the modification is recommended, in writing, by the engineer and approved by the drainage authority.

History: *1990 c 391 art 5 s 63; 2014 c 164 s 14*

103E.505 AWARDING CONSTRUCTION CONTRACT.

Subdivision 1. **Auditors and drainage authority to proceed.** Thirty days after the order establishing a drainage project is filed, the auditor and the drainage authority or, for a joint county drainage project, a majority of the auditors of the affected counties shall proceed to award the contract to construct the drainage project.

Subd. 2. **Pending appeal of benefits and damages.** If an appeal regarding the determination of benefits and damages is made within 30 days after the order establishing the drainage project has been filed, a contract may not be awarded until the appeal has been determined, unless the drainage authority orders the contract awarded. The auditor of an affected county or an interested person may request the drainage authority to make the order. If the request is not made by an affected auditor, the auditors of affected counties must be given notice five days before the hearing on the request.

Subd. 3. **Notice of contract awarding.** The auditor of an affected county shall give notice of the awarding of the contract by publication in a newspaper in the county. The notice must state the time and location for

awarding the contract. For a joint county drainage project the auditors shall award the contract at the office of the auditor where the proceedings are pending. If the estimated cost of construction is more than $25,000, the auditor must also place a notice in a drainage construction trade newspaper. The trade newspaper notice must state:

(1) the time and location for awarding the contract;

(2) the approximate amount of work and its estimated cost;

(3) that bids may be for the work as one job, or in sections, or separately, for bridges, ditches and open work, tile, or tile construction work, if required or advisable;

(4) that each bid must be accompanied by a certified check or a bond furnished by an approved surety corporation payable to the auditors of affected counties for ten percent of the bid, as security that the bidder will enter into a contract and give a bond as required by section 103E.501; and

(5) that the drainage authority reserves the right to reject any and all bids.

Subd. 4. **Engineer; contract award.** The engineer shall attend the meeting to award the contract. A bid may not be accepted without the engineer's approval of the bidder's compliance with plans and specifications.

Subd. 5. **How contract may be awarded.** The contract may be awarded in one job, in sections, or separately for labor and material and may be let to the lowest responsible bidder. Alternatively, the contract may be awarded to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 6. **Unacceptable bids.** Bids that in the aggregate exceed the total estimated cost of construction by more than 30 percent may not be accepted.

Subd. 7. **Affected counties contract through auditor.** The chair of the drainage authority and the auditor of each affected county shall contract, in the names of their respective counties, to construct the drainage project in the time and manner and according to the plans and specifications and the contract provisions in this chapter.

Subd. 8. **Work done by federal government.** If any of the drainage work is to be done by the United States or its agencies, a notice of awarding that contract does not need to be published and a contract for that construction is not necessary. Affected municipalities may contract or arrange with the United States or its agencies for cooperation or assistance in constructing, maintaining, and operating the drainage project and system, for control of waters in the district, or for making a survey and investigation or reports on the drainage project or system. The municipalities may provide required guaranty and protection to the United States or its agencies.

History: *1990 c 391 art 5 s 64; 2007 c 148 art 3 s 10; 2010 c 298 s 5*

103E.511 CONTRACT NOT AWARDED; EXCESSIVE BIDS OR COSTS.

Subdivision 1. **Applicability.** The procedure in this section may be used if, after a drainage system is established:

(1) the only bids received are for more than 30 percent in excess of the engineer's estimated cost, or in excess of the benefits, less damages and other costs; or

(2) a contract is awarded, but due to unavoidable delays not caused by the contractor, the contract cannot be completed for an amount equal to or less than the benefits, less damages and other costs.

Subd. 2. **Petition after cost estimate error or change to lower cost.** A person interested in the drainage project may petition the drainage authority if the person determines that the engineer made an error in the estimate of the drainage project cost or that the plans and specifications could be changed in a manner materially affecting the cost of the drainage system without interfering with efficiency. The petition must state the person's determinations and request that the detailed survey report and viewers' report be referred back to the engineer and to the viewers for additional consideration.

Subd. 3. **Petition after excessive cost due to inflation.** (a) A person interested in the drainage project may petition the drainage authority for an order to reconsider the detailed survey report and viewers' report if the person determines:

(1) that bids were received only for a price more than 30 percent in excess of the detailed survey report estimate because inflation increased the construction cost between the time of the detailed survey cost estimate and the time of awarding the contract; or

(2) that after the contract was awarded there was unavoidable delay not caused by the contractor, and between the time of awarding the contract and completion of construction inflation increased construction costs resulting in the contract not being completed for an amount equal to or less than the assessed benefits.

(b) The person may request in the petition that the drainage authority reconsider the original cost estimate in the detailed survey report and viewers' report and adjust the cost estimate consistent with the increased construction cost.

Subd. 4. **Hearing.** After receiving a petition, the drainage authority shall order a hearing. The order must designate the time and place of the hearing and direct the auditor to give notice by publication.

Subd. 5. **Orders and actions after hearing.** (a) At the hearing the drainage authority shall consider the petition and hear all interested parties.

(b) The drainage authority may, by order, authorize the engineer to amend the detailed survey report, if the drainage authority determines that:

(1) the detailed survey report cost estimate was erroneous and should be corrected;

(2) the plans and specifications could be changed in a manner materially affecting the cost of the drainage project without interfering with efficiency; and

(3) with the correction or modification a contract could be awarded within the 30 percent limitation and equal to or less than benefits.

(c) If the drainage authority determines that the amended changes affect the amount of benefits or damages to any property or that the benefits should be reexamined because of inflated land values or inflated construction costs, it shall refer the viewers' report to the viewers to reexamine the benefits and damages.

(d) The drainage authority may, by order, direct the engineer and viewers to amend their detailed survey report and viewers' report to consider the inflationary cost increases if the drainage authority determines that:

(1) bids were not received; or

(2) because of inflationary construction cost increases, construction under the awarded contract cannot be completed for 30 percent or less over the detailed survey cost estimate or in excess of the benefits, less damages and other costs.

(e) The drainage authority may continue the hearing to give the engineer or viewers additional time to amend the reports. The jurisdiction of the drainage authority continues at the adjourned hearing.

(f) The drainage authority has full authority to consider the amended reports and make findings and orders. A party may appeal to the district court under section 103E.091, subdivision 1.

History: *1990 c 391 art 5 s 65*

103E.515 DAMAGES; PAYMENT.

The board of each county where the damaged property is located must order the awarded damages to be paid, less any assessment against the property, before the property is entered for construction of the drainage project. If a county or a municipality that is awarded damages requests it, the assessment may not be deducted. If there is an appeal, the damages may not be paid until the final determination. If it is not clear who is entitled to the damages, the board may pay the damages to the court administrator of the district court of the county. The court shall direct the court administrator, by order, to pay the parties entitled to the damages.

History: *1990 c 391 art 5 s 66*

103E.521 CONSTRUCTION SUPERVISION.

The drainage authority shall require the engineer to supervise and inspect the construction under contract. The drainage authority shall cause the contracts under this chapter to be performed properly.

History: *1990 c 391 art 5 s 67*

103E.525 CONSTRUCTING AND MAINTAINING BRIDGES AND CULVERTS.

Subdivision 1. **Hydraulic capacity.** A public or private bridge or culvert may not be constructed or maintained across or in a drainage system with less hydraulic capacity than specified in the detailed survey report, except with the written approval of the director. If the detailed survey report does not specify the hydraulic capacity, a public or private bridge or culvert in or across a drainage system ditch may not be constructed without the director's approval of the hydraulic capacity.

Subd. 2. **Road authority responsibility.** Bridges and culverts on public roads required by the construction or improvement of a drainage project or system must be constructed and maintained by the road authority responsible for keeping the road in repair, except as provided in this section.

Subd. 3. **Notice; charging cost.** The auditor shall notify the state and each railroad company, corporation, or political subdivision that they are to construct a required bridge or culvert on a road or right-of-way under their jurisdiction, within a reasonable time as stated in the notice. If the work is not done within the prescribed time, the drainage authority may order the bridge or culvert constructed as part of the drainage project construction. The cost must be deducted from the damages awarded to the corporation or collected from it as an assessment for benefits. If the detailed survey report or viewers' report shows that the construction of the bridge or culvert is necessary, the drainage authority may, by order, retain an amount to secure the construction of the bridge or culvert from amounts to be paid to a railroad, corporation, or political subdivision.

Subd. 4. **Construction on line between two cities.** The costs of constructing a bridge or culvert that is required by construction of a drainage project on a public road that is not a state trunk highway on the line between two statutory or home rule charter cities, whether in the same county or not, must be paid jointly, in equal shares, by the cities. The cities shall pay jointly, in equal shares, for the cost of maintaining the bridge or culvert.

Subd. 5. **Construction on town and county lines.** The cost of constructing and maintaining bridges and culverts on a town or county road across a drainage system ditch constructed along the boundary line between towns or counties, with excavated material deposited on the boundary line or within 33 feet of the line, must be paid equally by the town or county where the bridge or culvert is located and the other town or county adjoining the boundary.

History: *1990 c 391 art 5 s 68; 2013 c 4 s 11*

103E.526 CONSTRUCTING ROAD INSTEAD OF BRIDGE OR CULVERT.

If the drainage authority finds that constructing a private road would be more cost-effective or practical than constructing a bridge or culvert, the drainage authority may order that a private road be constructed. The private road must be constructed and maintained in the same manner as a bridge or culvert. The private road must be constructed in a manner suitable for farm vehicles but may not have a right-of-way wider than 33 feet. The drainage authority has jurisdiction over the land required for the private road and the road is part of the drainage system.

History: *1990 c 391 art 5 s 69*

103E.53 RULES TO STANDARDIZE FORMS.

The director may adopt rules to standardize the forms and sizes of maps, plats, drawings, and specifications in drainage proceedings. The director must require the permanent grass strips acquired under section 103E.021 to be shown on the maps and maintain an inventory of all permanent grass strips acquired by drainage authorities.

History: *1990 c 391 art 5 s 70*

103E.531 INSPECTING DRAINAGE CONSTRUCTION; PARTIAL PAYMENTS.

Subdivision 1. **Inspection and report.** The engineer shall inspect and require the work as it is being completed to be done in accordance with the plans, specifications, and contract for construction. Each month during the work, the engineer shall report to the drainage authority, in writing, showing the work completed since the previous report and all materials furnished under the contract.

Subd. 2. **Preliminary certificate.** The engineer shall issue with the monthly report a preliminary certificate for work done and approved or materials delivered. The certificate must contain the station numbers of the work covered by the certificate and the total value of all work done and the materials furnished according to the contract. For each ditch section, the certificate must show the actual volume, in cubic yards, of the excavation completed. For joint county drainage systems the certificate must also show the percentage of the total value to be paid by each county in the proportion fixed by the drainage authority order. Each certificate must show that a loss will not occur as a result of a partial payment. A duplicate of the certificate must be delivered to the auditor of each affected county.

Subd. 3. **Partial payment.** The affected counties must pay the contractor, based on the certificate, 90 percent of the total value of work done and approved and 90 percent of the total value of material furnished

and delivered. The materials may only be delivered as required in the course of construction and authorized by the engineer.

History: *1990 c 391 art 5 s 71*

103E.535 PARTIAL PAYMENT OF RETAINED CONTRACT AMOUNTS.

Subdivision 1. **Petition for partial payment of retained value.** If a single contract exceeds $50,000, and the contract, exclusive of materials furnished and not installed, is one-half or more complete and the contractor is not in default, the contractor may file a verified petition with the auditor stating these facts and requesting that an order be made to pay 40 percent of the retained value of work and material.

Subd. 2. **Notice of hearing.** When the petition is filed, the auditor shall set a time and location for a hearing on the petition before the drainage authority. At least five days before the date of hearing, the auditor shall give notice by mail of the date and location of hearing to the engineer, the attorney for the petitioners, the surety of the contractor's bond, and auditors of the affected counties.

Subd. 3. **Hearing.** At the hearing the drainage authority shall hear all parties interested. If the drainage authority determines that the facts in the petition are correct, the work has been performed in a satisfactory manner, and a portion of the retained percentage may be released without endangering the interests of affected counties, the drainage authority shall state the findings and may order not more than 40 percent of the retained value of work and material to be paid.

History: *1990 c 391 art 5 s 72*

103E.541 EXTENDING TIME ON CONTRACTS.

The auditors of affected counties may extend the time for the performance of a contract as provided in this section. The contractor may apply, in writing, for an extension of the contract. Notice of the application must be given to: (1) the engineer and the attorney for the petitioners; and (2) for a joint county drainage project, to the auditors of the affected counties. The auditors may grant an extension if sufficient reasons are shown. The extension does not affect a claim for liquidated damages that may arise after the original time expires and before an extension or a claim that may arise after the time for the extension expires.

History: *1990 c 391 art 5 s 73*

103E.545 REDUCING CONTRACTOR'S BOND.

Subdivision 1. **Application to drainage authority.** (a) The contractor, at the end of each season's work and before the contract is completed, may make a verified application to the drainage authority to reduce the contractor's bond and file the application with the auditor. The application must state:

(1) the work certified as completed by the engineer;

(2) the value of the certified work;

(3) the amount of money received by the contractor and the amount retained by the drainage authority;

(4) the amount unpaid by the contractor for labor or material furnished on the contract; and

(5) a request for an order to reduce the amount of the contractor's bond.

(b) The application must be filed with the auditor.

Subd. 2. **Notice of hearing.** When an application is filed, the auditor, by order, shall set the time and location for a hearing on the application. Ten days before the hearing, notice of the hearing must be published in each affected county and notice by mail given to the engineer, the attorney for the petitioners, and the auditor of each affected county. The contractor must pay the cost of publishing the hearing notice.

Subd. 3. **Hearing; bond reduction.** The drainage authority may, by order, reduce the contractor's bond if it determines that the contractor is not in default and that a loss will not result from reducing the bond. The bond may be reduced to an amount sufficient to protect the affected counties from loss and damage, but the reduction:

(1) may not be more than 35 percent of the amount already paid to the contractor;

(2) may not affect the remaining amount of the bond;

(3) does not affect liability incurred on the bond before the reduction; and

(4) does not affect a provision for a three-year guaranty of tile work.

History: *1990 c 391 art 5 s 74*

103E.551 CONTRACTOR DEFAULT.

Subdivision 1. **Notice.** If a contractor defaults in the performance of the contract, the auditor shall mail a notice of the default to the contractor, the surety of the contractor's bond, the engineer, and the auditors of the affected counties. The notice must specify the default and state that if the default is not promptly removed and the contract completed, the unfinished portion of the contract will be awarded to another contractor.

Subd. 2. **Completing contract by surety.** If the surety of the contractor's bond promptly proceeds with the completion of the contract, the affected auditors may grant an extension of time. If the contract is completed by the surety, the balance due on the contract must be paid to the surety, less damages incurred by the affected counties from the default.

Subd. 3. **Awarding contract; recovery on bond.** If the surety of the contractor's bond does not undertake the completion of the contract or does not complete the contract within the time specified or extended, auditors of the affected counties shall advertise for bids to complete the contract in the manner provided in the original awarding of contracts. The drainage authority may recover the increased amounts paid to a subsequent contractor after reselling the work, and damages incurred by affected counties, from the first contractor's bond.

History: *1990 c 391 art 5 s 75*

103E.555 ACCEPTING CONTRACT.

Subdivision 1. **Engineer's report and notice.** When a contract is completed, the engineer shall make a report to the drainage authority showing the contract price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract. When the report is filed, the auditor shall set a time and location for a hearing on the report. The auditor shall give notice of the hearing by publication or notice by mail at least ten days before the hearing to the owners of affected property. The notice must state that the report is filed, the time and location for the hearing, and that a party objecting to the acceptance of the contract may appear and be heard.

Subd. 2. **Hearing.** At the hearing the drainage authority may, by order, direct payment of the balance due if it determines that the contract has been completed in accordance with the plans and specifications. If good cause is shown, the drainage authority may waive any part of the liquidated damages accruing under the contract. When the order is filed, the auditor shall draw a warrant on the treasurer of the county for the balance due on the contract. For a joint county drainage project or system the auditor shall make an order to the auditors of the affected counties to pay for their proportionate shares of the balance due on the contract. After receiving the order, the auditor of each affected county shall draw a warrant on the treasurer of the county for the amount specified in the order.

History: *1990 c 391 art 5 s 76*

FUNDING, COLLECTING, AND PAYING DRAINAGE SYSTEM COSTS

103E.601 DRAINAGE LIEN STATEMENT.

Subdivision 1. **Determining property liability.** When the contract for the construction of a drainage project is awarded, the auditor of an affected county shall make a statement showing the total cost of the drainage project with the estimated cost of all items required to complete the work. The cost must be prorated to each tract of property affected in direct proportion to the benefits. The cost, less any damages, is the amount of liability for each tract for the drainage project. The property liability must be shown in the tabular statement as provided in subdivision 2, opposite the property owner's name and description of each tract of property. The amount of liability on a tract of property for establishment and construction of a drainage project may not exceed the benefits determined in the proceedings that accrue to the tract.

Subd. 2. **Drainage lien statement.** The auditor of each affected county shall make a lien statement in tabular form showing:

(1) the names of the property owners, corporate entities, or political subdivisions of the county benefited or damaged by the construction of the drainage project in the viewers' report as approved by the final order for establishment;

(2) the description of the property in the viewers' report, and the total number of acres in each tract according to the county tax lists;

(3) the number of acres benefited or damaged in each tract shown in the viewers' report;

(4) the amount of benefits and damages to each tract of property as stated in the viewers' report and confirmed by the final order that established the drainage project unless the order is appealed and a different amount is set; and

(5) the amount each tract of property will be liable for and must pay to the county for the establishment and construction of the drainage project.

Subd. 3. **Supplemental drainage lien statement.** If any items of the cost of the drainage project have been omitted from the original drainage lien statement, a supplemental drainage lien statement with the omitted items must be made and recorded in the same manner provided for a drainage lien statement. The total amount of the original drainage lien and any supplemental drainage liens may not exceed the benefits.

Subd. 4. **Recording lien.** The lien against property in the drainage lien statement and supplemental drainage lien statements must be certified by the auditor and recorded on each tract by the county recorder

of the county where the tract is located. The county recorder's fees for recording must be paid if allowed by the board. The drainage lien statement and any supplemental drainage lien statements, after recording, must be returned and preserved by the auditor.

History: *1990 c 391 art 5 s 77*

103E.605 EFFECT OF FILED DRAINAGE LIEN.

The amount recorded from the drainage lien statement and supplemental drainage lien statement that each tract of property will be liable for, and the interest allowed on that amount, is a drainage lien on the property. The drainage lien is a first and paramount lien until fully paid, and has priority over all mortgages, charges, encumbrances, and other liens, unless the board subordinates the drainage lien to liens of record. The recording of the drainage lien, drainage lien statement, or a supplemental drainage lien statement is notice to all parties of the existence of the drainage lien.

History: *1990 c 391 art 5 s 78*

103E.611 PAYING DRAINAGE LIENS AND INTEREST.

Subdivision 1. **Paying lien principal.** (a) Drainage liens against property benefited under this chapter are payable to the treasurer of the county in 20 or less equal annual installments. The first installment of the principal is due on or before November 1 after the drainage lien statement is recorded, and each subsequent installment is due on or before November 1 of each year afterwards until the principal is paid.

(b) The drainage authority may, by order, direct the drainage lien to be paid by 1/15 of the principal on or before five years from November 1 after the lien statement is recorded, and 1/15 on or before November 1 of each year afterwards until the principal is paid.

(c) The drainage authority may order that the drainage lien must be paid by one or two installments, notwithstanding paragraphs (a) and (b), if the principal amount of a lien against a lot or tract of property or against a county or municipality is less than $500.

Subd. 2. **Interest.** (a) Interest is an additional drainage lien on all property until paid. The interest rate on the drainage lien principal from the date the drainage lien statement is recorded must be set by the board but may not exceed the rate determined by the state court administrator for judgments under section 549.09, or six percent, whichever is greater.

(b) Before the tax lists for the year are given to the county treasurer, the auditor shall compute the interest on the unpaid balance of the drainage lien at the rate set by the board. The amount of interest must be computed on the entire unpaid principal from the date the drainage lien was recorded to August 15 of the next calendar year, and afterwards from August 15 to August 15 of each year.

(c) Interest is due and payable after November 1 of each year the drainage lien principal or interest is due and unpaid.

Subd. 3. **Collecting payments.** Interest and any installment due must be entered on the tax lists for the year. The installment and interest must be collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as a part of the real estate taxes.

Subd. 4. **Prepaying interest.** Interest may be paid at any time, computed to the date of payment, except that after the interest is entered on the tax lists for the year, it is due as entered, without a reduction for prepayment.

Subd. 5. **Paying liens with bonds.** The board may direct the county treasurer to accept any outstanding bond that is a legal obligation of the county under this chapter issued on account of a drainage lien in payment of drainage liens under the provisions of this chapter. The bonds must be accepted at their par value plus accrued interest.

Subd. 6. **Lien record.** The auditor shall keep a drainage lien record for each drainage project and system showing the amount of the drainage lien remaining unpaid against each tract of property.

Subd. 7. **Collecting and enforcing drainage liens.** The enforcement, collection, penalty, and interest provisions relating to real estate taxes apply to the payment of drainage liens.

History: *1990 c 391 art 5 s 79; 1996 c 471 art 3 s 1; 2010 c 298 s 6; 1Sp2019 c 6 art 8 s 2*

103E.615 ENFORCING ASSESSMENTS.

Subdivision 1. **Municipalities.** Assessments filed for benefits to a municipality are a liability of the municipality and are due and payable with interest in installments on November 1 of each year as provided in section 103E.611. If the installments and interest are not paid on or before November 1, the amount due with interest added as provided in section 103E.611 must be extended by the county auditor against all property in the municipality that is liable to taxation. A levy must be made and the amount due must be paid and collected in the same manner and time as other taxes.

Subd. 2. **County or state-aid road.** If a public road benefited is a county or state-aid road, the assessment filed is against the county and must be paid out of the road and bridge fund of the county.

Subd. 3. **State trunk highway.** An assessment against the state for benefits to trunk highways is chargeable to and payable out of the trunk highway fund. The commissioner of transportation shall pay assessments from the trunk highway fund after receipt of a certified copy of the assessment against the state for benefits to a trunk highway.

Subd. 4. **Assessment for vacated town roads.** If a town is assessed for benefits to a town road in a drainage project proceeding under this chapter and the town road is later vacated by the town board under section 164.07, the town board may petition the drainage authority to cancel the assessment. The drainage authority may cancel the assessment if it finds that the town road for which benefits are assessed has been vacated under section 164.07.

Subd. 5. **State property.** State property, including rural credit property, is assessable for benefits received. The assessment must be paid by the state from funds appropriated and available for drainage assessments after the state officer having jurisdiction over the assessed property certifies the assessment to the commissioner of management and budget.

Subd. 6. MS 1992 [Repealed, 1994 c 561 s 28]

Subd. 7. **Railroad and utility property.** Property owned by a railroad or other utility corporation benefited by a drainage project is liable for the assessments of benefits on the property as other taxable property. From the date the drainage lien is recorded, the amount of the assessment with interest is a lien against all property of the corporation within the county. Upon default the assessment may be collected by civil action or the drainage lien may be foreclosed by action in the same manner as provided by law for the foreclosure of mortgage liens. The county where the drainage lien is filed has the right of action against the corporation to enforce and collect the assessment.

History: *1990 c 391 art 5 s 80; 2009 c 101 art 2 s 109*

103E.621 SATISFYING LIENS.

When a drainage lien with the accumulated interest is fully paid, the auditor shall issue a certificate of payment with the auditor's official seal and record the certificate with the county recorder. The recorded certificate releases and discharges the drainage lien. The auditor may collect 25 cents for each description in the certificate. The auditor's fee and the fee of the county recorder must be paid from the account for the drainage system.

History: *1990 c 391 art 5 s 81*

103E.625 SUBDIVISION BY PLATTING; LIENS APPORTIONED.

A tract of property with a drainage lien that is subdivided by platting is not complete and the plat may not be recorded until the drainage liens against the tracts are apportioned and the apportionment is filed with the county recorder of the county where the tract is located.

History: *1990 c 391 art 5 s 82*

103E.631 APPORTIONING LIENS.

Subdivision 1. **Petition.** A person who has an interest in property that has a drainage lien attached to it may petition the drainage authority to apportion the lien among specified portions of the tract if the payments of principal and interest on the property are not in default.

Subd. 2. **Notice.** When the petition is filed, the drainage authority shall, by order, set a time and location for a hearing on the petition. The drainage authority shall give notice of the hearing by personal service to the auditor, the occupants of the tract, and all parties having an interest in the tract as shown by the records in the county recorder's office. The service must be made at least ten days before the hearing. If personal service cannot be made to all interested persons, notice may be given by publication. The petitioner shall pay the costs for service or publication.

Subd. 3. **Hearing.** The drainage authority shall hear all related evidence and, by order, apportion the lien. A certified copy of the order must be recorded in the county recorder's office and filed with the auditor.

History: *1990 c 391 art 5 s 83*

103E.635 DRAINAGE BOND ISSUES.

Subdivision 1. **Authority.** After the contract for the construction of a drainage project is awarded, the board of an affected county may issue the bonds of the county in an amount necessary to pay the cost of establishing and constructing the drainage project.

Subd. 2. **Single issue for two or more drainage systems.** The board may include two or more drainage systems in a single drainage bond issue. The total amount of the drainage bond issue may not exceed the total cost, including expenses, to be assessed to pay for the drainage systems. The total cost to be assessed must be determined or estimated by the board when the drainage bonds are issued.

Subd. 3. **Security and source of payment.** The drainage bonds must be issued in accordance with chapter 475 and must pledge the full faith, credit, and resources of the county for the prompt payment of the principal and interest of the drainage bonds. The drainage bonds are primarily payable from the funds of the drainage systems financed by the bonds or from the common drainage bond redemption fund of the county. The common drainage bond redemption fund may be created by resolution of the county board as a debt redemption fund for the payment of drainage bonds issued under this chapter.

Subd. 4. **Payment period and interest.** (a) The board shall determine, by resolution:

(1) the time of payment for the drainage bonds, not to exceed 23 years from their date of issue;

(2) the rates of interest for the drainage bonds, with the net average rate of interest over the term of the bonds not to exceed the rate established under section 475.55; and

(3) whether the drainage bonds are payable annually or semiannually.

(b) The board shall determine the years and amounts of principal maturities that are necessary by the anticipated collections of the drainage systems assessments, without regard to any limitations on the maturities imposed by section 475.54.

Subd. 5. **Temporary drainage bonds maturing in two years or less.** The board may issue and sell temporary drainage bonds under this subdivision maturing not more than two years after their date of issue, instead of bonds as provided under subdivision 4. The county shall issue and sell definitive drainage bonds before the maturity of bonds issued under this subdivision and use the proceeds to pay for the temporary drainage bonds and interest to the extent that the temporary bonds are not paid for by assessments collected or other available funds. The holders of temporary drainage bonds and the taxpayers of the county have and may enforce by mandamus or other appropriate proceedings:

(1) all rights respecting the levy and collection of assessments sufficient to pay the cost of drainage proceedings and construction financed by the temporary drainage bonds that are granted by law to holders of other drainage bonds, except the right to require levies to be collected before the temporary drainage bonds mature; and

(2) the right to require the offering of definitive drainage bonds for sale, or to require the issuance of definitive drainage bonds in exchange for the temporary drainage bonds, on a par for par basis, bearing interest at the rate established under section 475.55 if the definitive drainage bonds have not been sold and delivered before the maturity of the temporary drainage bonds.

Subd. 6. **Definitive drainage bonds.** The definitive drainage bonds issued in exchange for an issue of temporary drainage bonds must be numbered and mature serially at times and in amounts to allow the principal and interest to be paid when due by the collection of assessments levied for the drainage systems financed by the temporary bond issue. The definitive bonds are subject to redemption and prepayment on any interest payment date when the county notifies the definitive bondholders who have registered their names and addresses with the county treasurer. The bondholders must be notified by mail 30 days before the interest payment date. The definitive bonds must be delivered in order of their serial numbers, lowest numbers first, to the holders of the temporary drainage bonds in order of the serial numbers of the bonds held by them.

Subd. 7. **Selling definitive drainage bonds.** The board must sell and negotiate the definitive drainage bonds according to sections 475.56 and 475.60.

Subd. 8. **Investing, purchasing, and selling temporary drainage bonds.** (a) Funds of the issuing county may be invested in temporary drainage bonds under section 118A.04, except that the temporary drainage bonds may be:

(1) purchased by the county when the temporary drainage bonds are initially issued;

(2) purchased only out of funds that the board determines will not be required for other purposes before the temporary drainage bonds mature; and

(3) resold before the temporary drainage bonds mature only if there is an unforeseen emergency.

(b) If a temporary drainage bond purchase is made from money held in a sinking fund for other bonds of the county, the holders of the other bonds may enforce the county's obligation to sell definitive bonds at or before the maturity of the temporary drainage bonds, or exchange the other bonds, in the same manner as holders of the temporary drainage bonds.

Subd. 9. **Delivering bonds as drainage work proceeds.** The board may provide in the contract for the sale of drainage bonds, temporary drainage bonds, and definitive drainage bonds, that the bonds are delivered as the drainage work proceeds and the money is needed, and that interest is paid only from the date of delivery.

Subd. 10. **Bond recital.** Each drainage bond, temporary drainage bond, and definitive drainage bond must contain a recital that it is issued by authority of and in strict accordance with this chapter. The recital is conclusive in favor of the holders of the bonds as against the county, that the drainage project has been properly established, that property within the county is subject to assessment for benefits in an amount not less than the amount of the bonds, and that all proceedings and construction relative to the drainage systems financed by the bonds have been or will be made according to law.

Subd. 11. **How bonds may be paid.** The board may pay drainage bonds, temporary drainage bonds, and definitive drainage bonds issued under this chapter from any available funds in the county treasury if the money in the common drainage bond redemption fund or in the drainage fund for the issued bonds is insufficient. The county treasury funds that money is transferred from must be reimbursed, with interest at a rate of seven percent per year for the time the money is actually needed, from assessments on the drainage systems or from the sale of drainage funding bonds.

History: *1990 c 391 art 5 s 84; 1996 c 399 art 2 s 1; 2006 c 259 art 9 s 1*

103E.641 DRAINAGE FUNDING BONDS.

Subdivision 1. **Authority.** The board may issue drainage funding bonds under the conditions and terms in this section.

Subd. 2. **Conditions for issuance.** Drainage funding bonds may be issued if:

(1) money in a drainage system account or in the common drainage bond redemption fund will not be sufficient to pay the principal and interest of the drainage bonds payable from the funds and becoming due within one year afterwards; or

(2) the county has paid any of the principal or interest on any of its drainage bonds from county funds other than the fund from which the bonds are payable, or by the issuance of county warrants issued and outstanding.

Subd. 3. **Auditor's certificate.** (a) Before drainage funding bonds are authorized or issued under this section, the county auditor shall first sign and seal a certificate and present the certificate to the board. The board shall enter the certificate in its records. The certificate must state in detail, for each of the several drainage systems:

(1) the amount that will be required to pay an existing shortage under subdivision 2; and

(2) the probable amount that will be required to pay the principal and interest of the county's outstanding drainage bonds that become due within one year afterwards.

(b) The certificate is conclusive evidence that the county has authority to issue bonds under the provisions of this section in an amount that does not exceed the aggregate amount specified in the auditor's certificate.

Subd. 4. **Issuing bonds.** When the auditor's certificate is entered in the board's records, the board may issue and sell, from time to time, county drainage funding bonds for the same drainage purposes as the funds listed in the certificate were used. The bonds must be designated drainage funding bonds. The board shall authorize issuance of the drainage funding bonds by resolution. The drainage funding bonds must be sold, issued, bear interest, and obligate the county as provided in section 103E.635 for drainage bonds. The drainage funding bonds must mature serially in annual installments that are payable within 15 years.

Subd. 5. **Application of bond proceeds.** The proceeds of drainage funding bonds that are paid into the treasury must be applied to the purpose for which they are issued.

Subd. 6. **County bond obligation.** Drainage funding bonds are general obligations of the county but are not included in determining the county's net indebtedness under any law.

History: *1990 c 391 art 5 s 85*

103E.645 ALLOWANCE AND PAYMENT OF FEES AND EXPENSES.

Subdivision 1. **Fees and expenses.** The fees and expenses in this section are allowed and must be paid for services provided under this chapter.

Subd. 2. **Engineer, engineer's assistants, and other employees.** The compensation of the engineer, the engineer's assistants, and other employees is on a per diem basis and must be set by order of the drainage authority. The order setting compensation must provide for payment of the actual and necessary expenses of the engineer, the engineer's assistants, and other employees, including the cost of the engineer's bond.

Subd. 3. **Viewers.** Each viewer may be paid for every necessary day the viewer is engaged on a per diem basis and for the viewer's actual and necessary expenses. The compensation must be set by the drainage authority.

Subd. 4. **Board members.** Each member of the board may be paid a per diem under section 375.055, subdivision 1, and actual and necessary expenses incurred while actually employed in drainage proceedings or construction, or in the inspection of any drainage system if the board member is appointed to a committee for that purpose.

Subd. 5. **Auditor, attorney for petitioners, and other county officials.** The county auditor and the attorney for the petitioners must each be paid reasonable compensation for services actually provided as determined by the drainage authority. The fees and compensation of all county officials in drainage proceedings and construction are in addition to other fees and compensation allowed by law.

Subd. 6. **Petitioners' bond.** The cost of the petitioners' bond must be allowed and paid.

Subd. 7. **Payment.** The fees and expenses provided for in this chapter for a drainage project or system in one county must be audited, allowed, and paid by order of the board or for a drainage project or system in more than one county must be audited, allowed, and paid by order of the drainage authority after ten days' written notice to each affected county. The notice must be given by the auditor to the auditors of affected counties. The notice must state the time and location of the hearing and that all bills on file with the auditor at the date of the notice must be presented for hearing and allowance.

History: *1990 c 391 art 5 s 86*

103E.651 DRAINAGE SYSTEM ACCOUNT.

Subdivision 1. **Funds for costs.** The board shall provide funds to pay the costs of drainage projects and systems.

Subd. 2. **Accounts.** The auditor shall keep a separate account for each drainage system. The account must be credited with all money from the sale of bonds and bond premiums and all money received from interest, liens, assessments, and other sources for the drainage system. The account must be debited with every item of expense made for the drainage system.

Subd. 3. **Investing surplus funds.** If a drainage system account or the common drainage bond redemption fund has a surplus over the amount required for payment of obligations presently due and payable from the account or fund, the board may invest any part of the surplus in bonds or certificates of indebtedness of the United States or of the state.

Subd. 4. **Dormant account transferred to general revenue fund.** If a surplus has existed in a drainage system account for a period of 20 years or more and there have not been any expenditures from the account during the period, the board, by a unanimous resolution, may transfer the surplus remaining in the drainage system account to the general revenue fund of the county.

History: *1990 c 391 art 5 s 87*

103E.655 PAYING DRAINAGE SYSTEM COSTS.

Subdivision 1. **Payment made from drainage system account.** The costs for a drainage project proceeding and construction must be paid from the drainage system account by drawing on the account.

Subd. 2. **Insufficient funds; transfer from other accounts.** If money is not available in the drainage system account on which the warrant is drawn, the board may, by unanimous resolution, transfer funds from any other drainage system account under its jurisdiction or from the county general revenue fund to the drainage system account. If the board transfers money from another account or fund to a drainage system account, the money plus interest must be reimbursed from the proceeds of the drainage system that received the transfer. The interest must be computed for the time the money is actually needed at the same rate per year charged on drainage liens and assessments.

Subd. 3. **Warrant on account with insufficient funds; interest on warrant.** If a warrant is issued by the auditor under this chapter and there is not enough money in the drainage system account to pay the warrant when it is presented, the county treasurer shall endorse the warrant "Not paid for want of funds" with the date and treasurer's signature. Interest on the warrant must be at the rate of six percent per year and paid annually from available funds until the warrant is called in and paid by the treasurer. Interest may not be paid on a warrant after money is available to the treasurer to pay the warrants. The warrant is a general obligation of the county issuing the warrant.

History: *1990 c 391 art 5 s 88*

103E.661 EXAMINING AND ESTABLISHING DRAINAGE SYSTEM ACCOUNTS; STATE AUDITOR.

Subdivision 1. **Application to examine accounts.** A county may apply, by resolution, to the state auditor to examine the accounts and records of any or all drainage systems in the county.

Subd. 2. **Establishing accounts.** The auditor must establish a system of accounts for each drainage system applied for in the county.

Subd. 3. **Paying expenses.** The compensation and travel and hotel expenses of the examining accountant must be audited, allowed, and paid into the state treasury by the board. The money must be credited to the general fund. The county auditor shall apportion the expenses among the drainage systems in the county.

History: *1990 c 391 art 5 s 89*

PROCEDURE TO REPAIR DRAINAGE SYSTEMS

103E.701 REPAIRS.

Subdivision 1. **Definition.** The term "repair," as used in this section, means to restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including resloping of ditches and leveling of spoil banks if necessary to prevent further deterioration, realignment to original construction if necessary to restore the effectiveness of the drainage system, and routine operations that may be required to remove obstructions and maintain the efficiency of the drainage system. "Repair" also includes:

(1) incidental straightening of a tile system resulting from the tile-laying technology used to replace tiles; and

(2) replacement of tiles with the next larger size that is readily available, if the original size is not readily available.

Subd. 2. **Repairs affecting public waters.** Before a repair is ordered, the drainage authority must notify the commissioner if the repair may affect public waters. If the commissioner disagrees with the repair depth, the engineer, a representative appointed by the director, and a soil and water conservation district technician must jointly determine the repair depth using soil borings, field surveys, and other available data or appropriate methods. Costs for determining the repair depth beyond the initial meeting must be shared equally by the drainage system and the commissioner. The determined repair depth must be recommended to the drainage authority. The drainage authority may accept the joint recommendation and proceed with the repair.

Subd. 3. **Repairing town ditches.** The town board has the power of a drainage authority to repair a town drainage system located within the town.

Subd. 4. **Bridges and culverts.** (a) Highway bridges and culverts constructed on a drainage system established on or after March 25, 1947, must be maintained by the road authority charged with the duty of maintenance under section 103E.525.

(b) Private bridges or culverts constructed as a part of a drainage system established by proceedings that began on or after March 25, 1947, must be maintained by the drainage authority as part of the drainage system. Private bridges or culverts constructed as a part of a drainage system established by proceedings that began before March 25, 1947, may be maintained, repaired, or rebuilt and any portion paid for as part of the drainage system by the drainage authority.

(c) For a repair of a drainage system that has had redetermination of benefits under section 103E.351, the drainage authority may repair or rebuild existing bridges or culverts on town and home rule charter and statutory city roads constructed as part of the drainage system and any portion of the cost may be paid by the drainage system.

Subd. 5. **Constructing road instead of bridge or culvert.** In a repair proceeding under sections 103E.701 to 103E.745, if the drainage authority finds that constructing a private road is more cost-effective or practical

than constructing a bridge or culvert, a drainage authority may order a private road to be constructed under section 103E.526, instead of a bridge or culvert.

Subd. 5a. **Compensation to landowners instead of bridge or culvert repair.** In a repair proceeding under sections 103E.701 to 103E.745, if the drainage authority finds that repairs to a private bridge or culvert are more expensive than compensation to landowners for permanent removal of the bridge or culvert, the drainage authority may order an amount of compensation to be paid to all landowners directly benefiting from the bridge or culvert, provided that:

(1) all landowners directly benefiting from the bridge or culvert provide written consent for permanent removal of the bridge or culvert;

(2) all landowners directly benefiting from the bridge or culvert agree in writing to permanently waive any right to repair or reconstruction of the bridge or culvert; and

(3) the compensation and cost of removing the bridge or culvert is less than the cost of repair of the bridge or culvert.

Subd. 6. **Wetland restoration and replacement; water quality protection and improvement.** Repair of a drainage system may include the preservation, restoration, or enhancement of wetlands; wetland replacement under section 103G.222; the realignment of a drainage system to prevent drainage of a wetland; and the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality.

Subd. 7. **Restoration; disturbance or destruction by repair.** If a drainage system repair disturbs or destroys a perennial vegetative cover or structural practice existing under a federal or state conservation program adjacent to the permanent drainage system right-of-way, the practice must be restored according to the applicable practice plan or as determined by the drainage authority, if a practice plan is not available. Restoration costs shall be paid by the drainage system.

History: *1990 c 391 art 5 s 90; 1991 c 354 art 10 s 2; 1993 c 175 s 1; 1996 c 462 s 4; 2003 c 84 s 1; 2007 c 57 art 1 s 114; 2013 c 4 s 12,13*

103E.705 REPAIR PROCEDURE.

Subdivision 1. **Inspection.** After the construction of a drainage system has been completed, the drainage authority shall maintain the drainage system that is located in its jurisdiction, including the permanent strips of perennial vegetation under section 103E.021, and provide the repairs necessary to make the drainage system efficient. The drainage authority shall have the drainage system inspected on a regular basis by an inspection committee of the drainage authority or a drainage inspector appointed by the drainage authority. Open drainage ditches shall be inspected at a minimum of every five years when no violation of section 103E.021 is found and annually when a violation of section 103E.021 is found, until one year after the violation is corrected.

Subd. 2. **Perennial vegetation; inspection and compliance notice.** (a) The drainage authority having jurisdiction over a drainage system must inspect the drainage system for violations of section 103E.021. If an inspection committee of the drainage authority or a drainage inspector determines that permanent strips of perennial vegetation are not being maintained in compliance with section 103E.021, a compliance notice must be sent to the property owner.

(b) The notice must state:

(1) the date the ditch was inspected;

(2) the persons making the inspection;

(3) that spoil banks are to be spread in a manner consistent with the plan and function of the drainage system and that the drainage system has acquired a permanent strip of perennial vegetation, according to section 103E.021;

(4) the violations of section 103E.021;

(5) the measures that must be taken by the property owner to comply with section 103E.021 and the date when the property must be in compliance; and

(6) that if the property owner does not comply by the date specified, the drainage authority will perform the work necessary to bring the area into compliance with section 103E.021 and charge the cost of the work to the property owner.

(c) If a property owner does not bring an area into compliance with section 103E.021 as provided in the compliance notice, the inspection committee or drainage inspector must notify the drainage authority.

(d) This subdivision applies to property acquired under section 103E.021.

Subd. 3. **Drainage inspection report.** For each drainage system that the board designates and requires the drainage inspector to examine, the drainage inspector shall make a drainage inspection report in writing to the board after examining a drainage system, designating portions that need repair or maintenance of the permanent strips of perennial vegetation and the location and nature of the repair or maintenance. The board shall consider the drainage inspection report at its next meeting and may repair all or any part of the drainage system as provided under this chapter. The permanent strips of perennial vegetation must be maintained in compliance with section 103E.021.

Subd. 4. **Inspection report to drainage authority.** If the inspection committee or drainage inspector reports, in writing, to the drainage authority that maintenance of grass strips or repairs are necessary on a drainage system and the report is approved by the drainage authority, the maintenance or repairs must be made under this section.

Subd. 5. **Repairs not subject to bidding requirements.** If the drainage authority finds that the estimated cost of repairs and maintenance of one drainage system for one year will be less than the greater of the dollar amount requiring the solicitation of sealed bids under section 471.345, subdivision 3, or $1,000 per mile of open ditch in the ditch system, it may have the repair work done by hired labor and equipment without advertising for bids or entering into a contract for the repair work.

Subd. 6. **Annual repair assessment; levy limits.** The drainage authority may give notice of and hold a hearing on the repair levy before ordering the levy of an assessment for repairs. In one calendar year the drainage authority may not levy an assessment for repairs or maintenance on one drainage system for more than 20 percent of the benefits of the drainage system, $1,000 per mile of open ditch in the ditch system, or the dollar amount requiring the solicitation of sealed bids under section 471.345, subdivision 3, whichever is greater, except for a repair made after a disaster as provided under subdivision 7 or under the petition procedure.

Subd. 7. **Repair and construction after disaster.** The drainage authority may repair and reconstruct the drainage system without advertising for bids and without regard to the $1,000 per mile of open ditch or the dollar amount requiring the solicitation of sealed bids under section 471.345, subdivision 3, limitation if:

(1) a drainage system is destroyed or impaired by floods, natural disaster, or unforeseen circumstances;

(2) the area where the drainage system is located has been declared a disaster area by the President of the United States and federal funds are available for repair or reconstruction; and

(3) the public interests would be damaged by repair or reconstruction being delayed.

History: *1990 c 391 art 5 s 91; 2007 c 57 art 1 s 115-117; 2008 c 207 s 1-3*

103E.711 COST APPORTIONMENT FOR JOINT COUNTY DRAINAGE SYSTEMS.

Subdivision 1. **Repair cost statement.** For a joint county drainage system the auditor of a county that has made repairs may present a repair cost statement at the end of each year, or other convenient period after completion, to each affected county. The repair cost statement must show the nature and cost of the repairs to the drainage system and must be based on the original apportionment of cost following the establishment of the drainage system. If a board approves the repair costs, the amount of the statement must be paid to the county submitting the statement.

Subd. 2. **Repair cost statement not paid.** (a) If a county does not pay the amount of the repair cost statement, the board of an affected county may petition the joint county drainage authority. The petition must:

(1) show the nature and necessity of the repairs made to the drainage system in the county during the period;

(2) show the cost of the repairs; and

(3) request the drainage authority to apportion the costs, by order, among the affected counties.

(b) When the petition is filed, the drainage authority shall, by order, set a time and location for a hearing to apportion the costs, and direct the auditor to give notice of the hearing to each affected county by publication and notice by mail to its auditor. At or before the hearing, the auditor of each affected county, except the petitioner, shall file with the drainage authority a statement showing:

(1) all repairs made to the drainage system in that county, not previously reimbursed;

(2) the nature and necessity of the repairs; and

(3) the cost of the repairs.

(c) The drainage authority has jurisdiction over the affected counties and shall hear all interested parties. The drainage authority shall determine which repairs were necessary and reasonable and proper costs. For the allowed repairs the drainage authority shall balance the accounts among the affected counties, by charging each county with its proportionate share of the cost of all repairs made and crediting each county with the amount paid for the repairs. The drainage authority shall order a just reimbursement among the affected counties. A certified copy of the order must be filed by the auditor with the auditors of affected counties, and the boards shall make the required reimbursement.

History: *1990 c 391 art 5 s 92*

103E.715 REPAIR BY PETITION.

Subdivision 1. **Repair petition.** An individual or an entity interested in or affected by a drainage system may file a petition to repair the drainage system. The petition must state that the drainage system needs

repair. The auditor shall present the petition to the board at its next meeting or, for a joint county drainage system, to the drainage authority within ten days after the petition is filed.

Subd. 2. **Engineer's repair report.** If the drainage authority determines that the drainage system needs repair, the drainage authority shall appoint an engineer to examine the drainage system and make a repair report. The report must show the necessary repairs, the estimated cost of the repairs, and all details, plans, and specifications necessary to prepare and award a contract for the repairs. The drainage authority may give notice and order a hearing on the petition before appointing the engineer.

Subd. 3. **Notice of hearing.** When the repair report is filed, the auditor shall promptly notify the drainage authority. The drainage authority in consultation with the auditor shall set a time, by order, not more than 30 days after the date of the order for a hearing on the repair report. At least ten days before the hearing, the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the repair in the repair report.

Subd. 4. **Hearing on repair report.** (a) The drainage authority shall make findings and order the repair to be made if:

(1) the drainage authority determines from the repair report and the evidence presented that the repairs recommended are necessary for the best interests of the affected property owners; or

(2) the repair petition is signed by the owners of at least 26 percent of the property area affected by and assessed for the original construction of the drainage system, and the drainage authority determines that the drainage system is in need of repair so that it no longer serves its original purpose and the cost of the repair will not exceed the total benefits determined in the original drainage system proceeding.

(b) The order must direct the auditor and the chair of the board or, for a joint county drainage system, the auditors of the affected counties to proceed and prepare and award a contract for the repair of the drainage system. The contract must be for the repair described in the repair report and as determined necessary by the drainage authority, and be prepared in the manner provided in this chapter for the original drainage system construction.

Subd. 5. **Apportioning repair cost for joint county drainage system.** For the repair of a joint county drainage system, the drainage authority shall, by order, apportion the repair cost among affected counties in the same manner required in the original construction of the drainage system.

Subd. 6. **Repair by resloping ditches, incorporating multistage ditch cross section, leveling spoil banks, installing erosion control, or removing trees.** (a) For a drainage system that is to be repaired by resloping ditches, incorporating a multistage ditch cross section, leveling spoil banks, installing erosion control measures, or removing trees, before ordering the repair, the drainage authority must appoint viewers to assess and report on damages and benefits if it determines that:

(1) the resloping, incorporation of a multistage ditch cross section, spoil bank leveling, installation of erosion control measures, or tree removal will require the taking of any property not contemplated and included in the proceeding for the establishment or subsequent improvement of the drainage system; or

(2) any spoil bank leveling or tree removal will directly benefit property where the spoil bank leveling or tree removal is specified.

(b) The viewers shall assess and report damages and benefits as provided by sections 103E.315 and 103E.321. The drainage authority shall hear and determine the damages and benefits as provided in sections 103E.325, 103E.335, and 103E.341. The hearing shall be held within 30 days after the property owners'

report is mailed. Damages must be paid as provided by section 103E.315 as a part of the cost of the repair, and benefits must be added to the benefits previously determined as the basis for the pro rata assessment for the repair of the drainage system for the repair proceeding only.

History: *1990 c 391 art 5 s 93; 2013 c 4 s 14*

103E.721 REPLACEMENT AND HYDRAULIC CAPACITY OF BRIDGES AND CULVERTS.

Subdivision 1. **Report on hydraulic capacity.** If the engineer determines in a drainage system repair proceeding that because of added property under section 103E.741 or otherwise, a bridge constructed or replaced or culvert installed or replaced as a part of a drainage system provides inadequate hydraulic capacity for the efficient operation of the drainage system to serve its original purpose, the engineer shall make a hydraulic capacity report to the drainage authority. The hydraulic capacity report must include plans and specifications for the recommended replacement of bridges and culverts, the necessary details to make and award a contract, and the estimated cost.

Subd. 2. **Notice.** When the hydraulic capacity report is filed, the auditor shall promptly notify the drainage authority. The drainage authority in consultation with the auditor shall, by order, set a time not more than 30 days after the date of the order, for a hearing on the report. At least ten days before the hearing, the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the repair proposed in the repair report. The notice may be given in conjunction with and as a part of the repair report notice, but the notice must specifically state that increasing the hydraulic capacity will be considered by the drainage authority at the hearing.

Subd. 3. **Report hearing.** At the hearing on the hydraulic capacity report, the drainage authority shall hear all interested parties. If the drainage authority finds that existing bridges and culverts provide insufficient hydraulic capacity for the efficient operation of the drainage system as originally constructed or subsequently improved, the drainage authority shall make findings accordingly, and may order that the hydraulic capacity be increased by constructing bridges or installing culverts of a sufficient capacity. The drainage authority shall determine and include in the order the type and plans for the replacement bridges or culverts. The order must direct the state, political subdivision, railroad company, or other entity to construct bridges or culverts required by the order for its road or right-of-way within a reasonable time stated in the order. The auditor shall notify the state, political subdivision, railroad company, or other entity to construct the bridges and culverts in accordance with the order.

Subd. 4. **Construction not completed within specified time.** If the work is not done within the time specified, the drainage authority may order the bridges and culverts built and the cost collected as an assessment for benefits.

Subd. 5. **Request for culvert or bridge to be installed as part of repair.** If a political subdivision, railroad company, or other entity, at the hearing or when notified to construct a bridge or install a culvert, requests that the bridge or culvert be installed as part of the repair of the drainage system, the drainage authority may, by order, direct the cost of the construction and installation be assessed and collected from the political subdivision, railroad company, or other entity in the manner provided by section 103E.731.

History: *1990 c 391 art 5 s 94*

103E.725 COST OF REPAIR.

All fees and costs incurred for proceedings relating to the repair of a drainage system, including inspections, engineering, viewing, and publications, are costs of the repair and must be assessed against the property and entities benefited.

History: *1990 c 391 art 5 s 95*

103E.728 APPORTIONING REPAIR COSTS.

Subdivision 1. **Generally.** The cost of repairing a drainage system shall be apportioned pro rata on all property and entities that have been assessed benefits for the drainage system except as provided in this section.

Subd. 2. **Additional assessment for agricultural practices on permanent strip of perennial vegetation.** (a) The drainage authority may, after notice and hearing, charge an additional assessment on property that has agricultural practices on or otherwise violates provisions related to the permanent strip of perennial vegetation acquired under section 103E.021.

(b) The drainage authority may determine the cost of the repair per mile of open ditch on the ditch system. Property that is in violation of the grass requirement shall be assessed a cost of 20 percent of the repair cost per open ditch mile multiplied by the length of open ditch in miles on the property in violation.

(c) After the amount of the additional assessment is determined and applied to the repair cost, the balance of the repair cost may be apportioned pro rata as provided in subdivision 1.

Subd. 3. **Soil loss violations.** The drainage authority after notice and hearing may make special assessments on property that is in violation of a county soil loss ordinance.

History: *1990 c 391 art 5 s 96; 2007 c 57 art 1 s 118*

103E.729 APPORTIONING REPAIR COSTS; ALTERNATIVE OPTION.

Subdivision 1. **Option.** Notwithstanding any conflicting provision of this chapter, a drainage authority may use the option under this section to apportion repair costs on all property contributing runoff to the drainage system according to the relative runoff and relative sediment delivery determined in an approved report to apportion repair costs prepared according to subdivision 2. Repair costs apportioned using the method in this section are charges for property contributing runoff to the drainage system that must be considered repair cost assessments under this chapter.

Subd. 2. **Report to apportion repair costs.** (a) When the drainage authority determines that a drainage system repair is necessary, the drainage authority may apportion costs for repairing a drainage system based on relative runoff and relative sediment delivery from any property, public road, street, railway, or other utility contributing runoff to the drainage system as provided in this section. If the method under this section is used, costs must be determined before ordering the repair of all or any part of a drainage system as provided in section 103E.705, subdivision 3, or 103E.715, subdivision 4, or before levying an assessment for a repair fund as provided in section 103E.735, subdivision 1.

(b) The drainage authority must appoint one or more persons qualified to use geographic information system technology and applicable digital information, including but not limited to conditioned topographic data, soils and land use data, and property, road, and utility corridor identification data, together with appropriate on-site verification, to equitably apportion repair costs.

(c) The person or persons conducting the cost apportionment must file a report to apportion repair costs with the drainage authority explaining in nontechnical language the method, data, and interpretations used and the results of the cost apportionment. The report must present data and results in a format so that individual property owners, political subdivisions, and utilities can clearly examine the information applicable to their property, public road, street, railway, or other utility, including for each parcel having a separate property identification number.

Subd. 3. **Hearing on report.** (a) When a report to apportion repair costs is filed, the drainage authority, in consultation with the auditor or secretary, must set a time, by order, for a hearing on the report not more than 30 days after the date of the order. At least 20 days before the hearing, the auditor or secretary must give notice by mail of the time and location of the hearing to the owners of property, political subdivisions, and utilities proposed to be assessed in the report. The notice of hearing must include a copy of the portion of the report explaining in nontechnical language the method, data, and interpretations used; the results of the cost apportionment applicable to the property owner, political subdivision, or utility receiving notice; and a statement of the location where the entire report to apportion repair costs has been filed for public inspection.

(b) At the hearing, the drainage authority must hear and consider the testimony presented by all interested parties. At least one person responsible for preparing the report to apportion repair costs must be present at the initial hearing.

(c) If the drainage authority determines that the apportionment of costs is inequitable, the drainage authority may amend the report to apportion repair costs and must make necessary and proper findings and an order in relation to the report, or resubmit matters to the report preparer for further consideration. If matters are resubmitted, the hearing may be continued as necessary to make and hear an amended report. The report preparer must proceed promptly to reconsider resubmitted matters and must make and file an amended report. The drainage authority may replace the original report with the amended report to apportion repair costs and make necessary and proper findings and an order to approve the amended report. The jurisdiction of the drainage authority continues in the property given proper notice, and new or additional notice is not required for that property.

Subd. 4. **Findings; approval.** After considering the report to apportion repair costs, any amended report, and all evidence presented, the drainage authority must make findings, approve the report, and apportion repair costs consistent with the values in the report to apportion repair costs if the drainage authority finds that the cost apportionment is equitable because:

(1) the weighting of relative runoff and relative sediment delivery is appropriate for the type of repair;

(2) the data inputs are reliable; and

(3) the computation method is reliable.

Subd. 5. **Report updates.** The drainage authority may continue to apportion repair costs consistent with the values in the report to apportion repair costs of record. After a report to apportion repair costs has been approved under this subdivision, an owner of property, a political subdivision, or a utility assessed in the report of record may request in writing that the drainage authority update the report based on changed land use. The request must be filed with the auditor of the county where the property is located or the secretary. Before the drainage authority approves a repair cost assessment for the drainage system, the drainage authority must determine if the report to apportion repair costs of record reasonably reflects current land use, relative runoff, and relative sediment delivery. If it does not so reflect, the drainage authority must make findings

and must appoint one or more persons to prepare and file an updated report to apportion repair costs for the drainage system in accordance with subdivision 2.

Subd. 6. **Conservation lands.** Proper consideration must be given to property that is used for conservation that prohibits development or land use change by ownership, deed restriction, or conservation easement, or is enrolled in a program that prohibits agricultural crop production.

Subd. 7. **Appeals.** The owner of any property subject to cost apportionment listed in the adopted report to apportion repair costs may appeal the findings of the drainage authority under subdivision 4 as provided in section 103E.095.

Subd. 8. **Definitions.** For purposes of this section:

(1) "relative runoff" means the surface and subsurface runoff potential from a specific property compared on an equitable basis to all other properties contributing runoff to the drainage system; and

(2) "relative sediment delivery" means the sediment delivery potential from a specific property compared on an equitable basis to all other properties contributing runoff to the drainage system.

Subd. 9. **Sunset.** This section expires on July 31, 2029.

History: *2019 c 24 s 7; 2024 c 90 art 3 s 60*

103E.731 ASSESSMENT; BONDS.

Subdivision 1. **Repair cost of assessments.** If there is not enough money in the drainage system account to make a repair, the board shall assess the costs of the repairs on all property and entities that have been assessed benefits for the drainage system.

Subd. 2. **Number of installments.** The assessments may be paid in annual installments specified in the assessment order. If the assessments are not more than 50 percent of the original cost of the drainage system, the installments may not exceed ten. If the assessments are greater than 50 percent of the original cost of the drainage system, the board may order the assessments to be paid in 15 or less installments.

Subd. 3. **Interest on assessments.** If the order provides for payment in installments, interest on unpaid assessments from the date of the order for assessments must be set by the board in the order. The interest rate may not exceed seven percent per year and must be collected with each installment.

Subd. 4. **Collecting assessments.** If the assessment is not payable in installments, a lien does not need to be filed, and the assessment, plus interest from the date of the order to August 15 of the next calendar year, must be entered on the tax lists for the year. The assessment and interest are due and payable with and as a part of the real estate taxes for the year. If an assessment is levied and payable in installments, the auditor shall file for the record in the county recorder's office an additional tabular statement in substance as provided in section 103E.601, and all the provisions of sections 103E.605, 103E.611, and 103E.615 relating to collection and payment must apply to the assessment. Upon the filing of the tabular statement, the installment and interest are due and payable and must be entered on the tax lists and collected in the same manner as the original lien.

Subd. 5. **Conditions to sell bonds for repair.** If a contract for drainage system repair has been entered into under this chapter or the repair has been ordered to be constructed by hired labor and equipment, and the board has ordered the assessments to be paid in installments, the board may issue and sell bonds, as provided by section 103E.635.

Subd. 6. **Repair of state drainage system when no benefits assessed.** For the repair of a drainage system established by the state where benefits were not assessed to the property, the drainage authority shall proceed to appoint viewers to determine the benefits resulting from the repair and collect assessments for the repair as provided in this chapter.

History: *1990 c 391 art 5 s 97*

103E.735 DRAINAGE SYSTEMS; REPAIR FUND.

Subdivision 1. **Authority and limits of fund.** To create a repair fund for a drainage system to be used only for repairs, the drainage authority may apportion and assess an amount against all property and entities assessed for benefits in proceedings for establishment of the drainage system, including property not originally assessed and subsequently found to be benefited according to law. The fund may not exceed 20 percent of the assessed benefits of the drainage system or $100,000, whichever is greater. If the account in a fund for a drainage system exceeds the larger of 20 percent of the assessed benefits of the drainage system or $100,000, assessments for the fund may not be made until the account is less than the larger of 20 percent of the assessed benefits or $100,000. Assessments must be made pro rata according to the determined benefits. Assessments may be made payable, by order, in equal annual installments. The auditor shall file a tabular statement as provided in section 103E.731, subdivision 4, with the county recorder. Assessments must be collected as provided in section 103E.731.

Subd. 2. **Transferring drainage system.** If a drainage system within the county has been taken over by a watershed district, or if responsibility for repair and maintenance of the drainage system has been assumed by any other governing body, the board may transfer any remaining surplus of the drainage system repair fund 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.

History: *1990 c 391 art 5 s 98; 2010 c 298 s 7*

103E.741 PROPERTY NOT ASSESSED BENEFITS; HEARING.

Subdivision 1. **Consideration by engineer.** In a proceeding to repair a drainage system, if the engineer determines or is made aware that property that was not assessed for benefits for construction of the drainage system has been drained into the drainage system or has otherwise benefited from the drainage system, the engineer shall submit a map with the repair report. The map must show all public and private main ditches and drains that drain into the drainage system, all property affected or otherwise benefited by the drainage system, and the names of the property owners to the extent practicable. The property owners must be notified of the hearing on the repair report at least ten days before the hearing. The auditor must give notice of the time and location of the hearing by mail.

Subd. 2. **Appointing viewers.** At the hearing on the repair report, if the drainage authority determines that property not assessed for benefits for the construction of the drainage system has been benefited by the drainage system, the drainage authority shall appoint viewers as provided by section 103E.305 before the repair contract is awarded. The viewers shall determine the benefits to all property and entities benefited by the original construction of the drainage system and not assessed for benefits arising from its construction. The viewers shall make a viewers' repair report to the drainage authority as provided by section 103E.315. When the viewers' repair report is filed, the auditor shall give notice of a hearing as required by section 103E.325 and the drainage authority has jurisdiction of each tract of property described in the viewers' report as provided in section 103E.331.

Subd. 3. **Viewers' repair report; hearing.** At the hearing on the viewers' repair report, the drainage authority shall hear all interested parties and determine the benefits to property and entities benefited by the original construction of the drainage system and not assessed for benefits.

Subd. 4. **Appealing assessment order.** A person may appeal from the order determining the assessments as provided by section 103E.091.

Subd. 5. **Property benefited in hearing order included in future proceedings.** For the repair of the drainage system under this section that included the property that was not assessed and in all future proceedings relating to repairing, cleaning, improving, or altering the drainage system, the property benefited in the viewers' report hearing is part of the property benefited by the drainage system and must be assessed, in the same manner provided for the assessment of the property originally assessed for and included in the drainage system.

History: *1990 c 391 art 5 s 99*

103E.745 COST OF REPAIR EXCEEDING BENEFITS IN ANOKA COUNTY.

If the cost of the repair of a drainage system exceeds the benefits determined in the original proceedings for the establishment of the drainage system, the requirements of section 103E.215 for improvements of drainage systems apply if:

(1) the repair will result in the drainage of 100 or more acres of public waters in Anoka County;

(2) the public waters have existed for 15 or more years;

(3) the drainage system has not been substantially repaired for more than 25 years; and

(4) the physical repair was not started before July 1, 1980.

History: *1990 c 391 art 5 s 100*

CONSOLIDATING, DIVIDING, AND ABANDONING DRAINAGE SYSTEMS

103E.801 CONSOLIDATING OR DIVIDING DRAINAGE SYSTEMS.

Subdivision 1. **Authority to consolidate or divide.** After the benefited area of a drainage system has been redetermined by the drainage authority under section 103E.351 or in connection with drainage proceedings, the drainage authority may divide one system into two or more separate systems, consolidate two or more systems, transfer part of one system to another, or attach a part of a system that has been abandoned as provided in section 103E.805 or 103E.811 to another system to provide for the efficient administration of the system consistent with the redetermination of the benefited area.

Subd. 2. **Initiating action.** The consolidation or division may be initiated by the drainage authority on its own motion or by any party interested in or affected by the drainage system filing a petition. If the system is under the jurisdiction of a drainage authority, the petition must be filed with the auditor. If the system is under the jurisdiction of a watershed board, the petition must be filed with the secretary of the board.

Subd. 3. **Hearing.** (a) When a drainage authority or watershed board directs by resolution or a petition is filed, the drainage authority in consultation with the auditor or secretary shall set a time and location for a hearing. The auditor or secretary shall give notice by publication to all persons interested in the drainage system. The drainage authority may consolidate or divide drainage systems, by order, if it determines that

the division of one system into two or more separate systems, the consolidation of two or more systems, the transfer of part of one system to another, or the attachment of a previously abandoned part of a system to another system:

(1) is consistent with the redetermination of the benefited areas of the drainage system;

(2) would provide for the efficient administration of the drainage system; and

(3) would be fair and equitable.

(b) An order to consolidate or divide drainage systems does not release property from a drainage lien or assessment filed for costs incurred on account of a drainage system before the date of the order.

History: *1990 c 391 art 5 s 101*

103E.805 REMOVING PROPERTY FROM DRAINAGE SYSTEM.

Subdivision 1. **Petition.** After construction of a drainage system, an owner of benefited property may petition the drainage authority to remove property from the drainage system.

Subd. 2. **Filing.** If the drainage system is under the jurisdiction of a county drainage authority, the petition must be filed with the auditor of the county. If the drainage system is under the jurisdiction of a joint county drainage authority, the petition must be filed with the county having the largest area of property in the drainage system, where the primary drainage system records are kept. If the system is under the jurisdiction of a watershed district, the petition must be filed with the secretary of the district.

Subd. 3. **Hearing.** (a) When the petition is filed, the drainage authority in consultation with the auditor or the secretary shall set a time and location for a hearing on the petition and shall give notice of the hearing by mail to the owners of all property benefited by the drainage system, and either in a newspaper of general circulation within the affected drainage area or by publication on a website of the drainage authority.

(b) At the hearing, the drainage authority shall make findings and shall direct, by order, that the petitioners' property be removed from the drainage system if the drainage authority determines:

(1) that the waters from the petitioners' property have been diverted from the drainage system, or that the property cannot significantly or regularly use the drainage system;

(2) that the property is not benefited by the drainage system; and

(3) that removing the property from the drainage system will not prejudice the property owners and property remaining in the system.

Subd. 4. **Effect of removing property.** The property that has been removed from the drainage system is not affected by the drainage system at any later proceeding for the repair or improvement of the drainage system and a drainage lien or assessment for repairs or improvements may not be made against the property that has been removed on or after the date of the order.

Subd. 5. **Liens and assessments on property removed.** An order under this section does not release the property from a drainage lien filed on account of the drainage system before the date of the order. An order under this section does not release the property from any assessment or a drainage lien filed on or after the date of the order for costs incurred on account of the drainage system before the date of the order.

History: *1990 c 391 art 5 s 102; 2010 c 298 s 8*

103E.806 PARTIAL ABANDONMENT OF DRAINAGE SYSTEM.

Subdivision 1. **Petition.** After construction of a drainage system, an owner of benefited property may petition the drainage authority to abandon any part of the drainage system that is not of public benefit and utility and does not serve a substantial useful purpose to property remaining in the system.

Subd. 2. **Filing.** If the drainage system is under the jurisdiction of a county drainage authority, the petition must be filed with the auditor of the county. If the drainage system is under the jurisdiction of a joint county drainage authority, the petition must be filed with the county having the largest area of property in the drainage system, where the primary drainage system records are kept. If the system is under the jurisdiction of a watershed district, the petition must be filed with the secretary of the district.

Subd. 3. **Hearing.** (a) When the petition is filed, the drainage authority, in consultation with the auditor or the secretary, shall set a time and location for a hearing on the petition and shall give notice of the hearing by mail to the owners of all property benefited by the drainage system, and either in a newspaper of general circulation within the affected drainage area or by publication on a website of the drainage authority.

(b) At the hearing, the drainage authority shall make findings and direct, by order, that part of the drainage system be abandoned, if the drainage authority determines that part of the drainage system does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility.

Subd. 4. **Effect of partial abandonment.** After partial abandonment of a drainage system, a repair petition may not be accepted for the abandoned part of the drainage system and the responsibility of the drainage authority for that part of the drainage system ends.

Subd. 5. **Liens and assessments on property.** An order under this section does not release the property from a drainage lien filed on account of the drainage system before the date of the order. An order under this section does not release the property from any assessment or a drainage lien filed on or after the date of the order for costs incurred on account of the drainage system before the date of the order.

History: *2010 c 298 s 9*

103E.811 ABANDONING DRAINAGE SYSTEM.

Subdivision 1. **Drainage lien payment period must expire.** After the period originally fixed or subsequently extended to pay the assessment of the drainage liens expires, a drainage system may be abandoned as provided in this section.

Subd. 2. **Petitioners.** A petition must be signed by at least 51 percent of the property owners assessed for the construction of the drainage system or by the owners of not less than 51 percent of the area of the property assessed for the drainage system. For the purpose of the petition, the county is the resident owner of all tax-forfeited property held by the state and assessed benefits for the drainage system, and the board may execute the petition for the county as an owner.

Subd. 3. **Petition.** The petition must designate the drainage system proposed to be abandoned and show that the drainage system is not of public benefit and utility because the agricultural property that used the drainage system has been generally abandoned or because the drainage system has ceased to function and its restoration is not practical.

Subd. 4. **Filing petition; jurisdiction.** If all property assessed for benefits in the drainage system is in one county, the petition must be filed with the auditor unless the petition is signed by the board, in which

case the petition must be made to the district court of the county and filed with the court administrator. If property assessed for benefits is in two or more counties, the petition must be filed with the auditor. When the petition is filed, the drainage authority in consultation with the auditor, or the court administrator with the approval of the court, shall set a time and location for a hearing on the petition. The auditor or court administrator shall give notice by publication of the time and location of the abandonment hearing to all persons interested. The drainage authority or the district court where the petition is properly filed has jurisdiction of the petition.

Subd. 5. **Abandonment hearing.** (a) At the hearing, the drainage authority or court shall examine the petition and determine whether it is sufficient and shall hear all interested parties.

(b) If a property owner assessed benefits for the drainage system appears and makes a written objection to the abandonment of the drainage system, the drainage authority or court shall appoint three disinterested persons as viewers to examine the property and report to the drainage authority or court. The hearing must be adjourned to make the examination and report and a date must be set to reconvene. The viewers, if appointed, shall proceed to examine the property of the objecting owner and report as soon as possible to the drainage authority or court with the description and situation of the property and whether the drainage system drains or otherwise affects the property.

(c) When the hearing is reconvened, the drainage authority or court shall consider the viewers' report and all evidence offered, and:

(1) if the drainage authority determines that the drainage system serves any useful purpose to any property or the general public, the petition for abandonment must be denied; or

(2) if the drainage authority determines that the drainage system does not serve any useful purpose to any affected property and is not of public benefit and utility, the drainage authority or court shall make findings and shall, by order, abandon the drainage system.

Subd. 6. **Effect of abandonment.** After abandonment of a drainage system, a repair petition for the drainage system may not be accepted and the responsibility of the drainage authority for the maintenance of the drainage system ends.

History: *1990 c 391 art 5 s 103*

103E.812 TRANSFER OF ALL OR PART OF DRAINAGE SYSTEM.

Subdivision 1. **Transfer after lien payment period expires.** After the period originally fixed or subsequently extended to pay the assessment of the drainage lien expires, all or part of a drainage system may be transferred from the jurisdiction of the drainage authority to a water management authority as provided in this section.

Subd. 2. **Petitioners.** (a) For drainage systems outside of the seven-county metropolitan area, and outside of the municipal boundaries of a statutory or home rule charter city, a petition must be signed by at least 51 percent of the owners of property assessed for the construction of the drainage system, or portion of the drainage system proposed to be transferred, or by the owners of not less than 51 percent of the area of the property assessed for the drainage system, or portion of the drainage system sought to be transferred. The water management authority to which the drainage system is to be transferred must join the petition.

(b) For drainage systems wholly or partially within the municipal boundaries of a statutory or home rule charter city, the city may petition for transfer if the drainage system or portion of the drainage system

proposed to be transferred lies within the boundaries of the city. The water management authority to which the drainage system is to be transferred must join the petition.

(c) For drainage systems within the seven-county metropolitan area and within the jurisdictional boundaries of an existing water management authority, the water management authority may petition for transfer if the drainage system or portion of the drainage system proposed to be transferred lies within the boundaries of the water management authority.

(d) For the purpose of the petition, the county is the resident owner of all tax-forfeited property held by the state, under chapter 282, and assessed benefits for the drainage system, and the board may execute the petition for the county as an owner. This paragraph does not apply to lands acquired by the state under chapter 84A.

Subd. 3. **Petition.** (a) The petition must designate the drainage system, or portion thereof, proposed to be transferred and show that the transfer is necessary for the orderly management of storm, surface, or floodwaters, including management for water quality purposes.

(b) The petition must indicate the impact, if any, that the transfer will have on properties utilizing the drainage system for an outlet or otherwise benefiting from the existence of the drainage system.

(c) The petition must include an engineering report, prepared by the transferee water management authority, establishing, for the record, the nature and extent of the drainage easement occupied by the drainage system, and the as-constructed, or subsequently improved, depth, grade, and hydraulic capacity of the drainage system.

Subd. 4. **Filing petition; jurisdiction.** (a) If the drainage system is administered by a county or joint county drainage authority and if all property assessed for benefits in the drainage system is in one county, the petition must be filed with the auditor unless the petition is signed by the board, in which case the petition must be made to the district court of the county where the drainage system is located and filed with the court administrator. If the board, acting as the drainage authority, is also the petitioning water management authority, the petition must be made to the district court of the county where the drainage system is located and filed with the court administrator. If property assessed for benefits is in two or more counties, the petition must be filed with the auditor or court administrator of either (1) the county where the portion of the drainage system sought to be transferred exists; (2) the county not petitioning for the transfer; or (3) the county where the majority of the drainage system sought to be transferred exists.

(b) If the drainage system is administered by the board of managers of a watershed district, the petition must be filed with the secretary of the watershed district. If the watershed district is also the petitioning water management authority, the petition must be filed with the court administrator consistent with the criteria in paragraph (a), clauses (1) to (3).

(c) When the petition is filed, the drainage authority in consultation with the auditor or secretary, or the court administrator with the approval of the court, shall set a time and location for a hearing on the petition. The auditor, secretary, or court administrator shall give notice by mail and publication of the time and location of the transfer hearing to all persons interested. The notice shall include a description of the property owner's right to object under subdivision 5. The drainage authority or the district court where the petition is properly filed has jurisdiction of the petition.

Subd. 5. **Transfer hearing.** (a) At the hearing, the drainage authority or court shall examine the petition and determine whether it is sufficient and shall hear all interested parties.

(b) If a property owner assessed benefits for the drainage system appears and makes a written objection to the transfer of the drainage system, the drainage authority or court shall appoint a technical panel to examine the drainage system, the property, and the proposed transfer and report to the drainage authority or court. The hearing must be adjourned to make the examination and report and a date must be set to reconvene. The technical panel shall consist, at a minimum, of a representative of the drainage authority, a representative of the commissioner, a representative of the soil and water conservation district, a representative of the Board of Water and Soil Resources, and a viewer. The technical panel shall proceed to examine the drainage system, the property, and the property owner's objections to the proposed transfer of the system and report as soon as possible to the drainage authority or court with the merits of the objections. The technical panel shall also determine the extent to which the transfer of the drainage system will damage or take property. Nongovernment employee members of the technical panel must be compensated in the same manner as viewers under section 103E.645, subdivision 3.

(c) The Board of Water and Soil Resources and the commissioner, if requested by the drainage authority or court, shall provide any technical assistance, including engineering, surveys, hydrologic analyses, or water quality studies as requested by the drainage authority or court.

(d) When the hearing is reconvened, the drainage authority or court shall consider the technical panel's report and all evidence offered. If the drainage authority or court determines that storm, surface, or floodwaters along the drainage system or within the benefited area of the drainage system, could be better managed by a water management authority, it shall authorize the transfer of the drainage system.

Subd. 6. **Costs related to transfer proceedings.** Costs, including engineering and attorney's fees, related to the proceedings to transfer a drainage system must be paid by the proposed transferee water management authority. If the drainage authority or court orders that the drainage authority should not be transferred, the drainage authority shall reimburse the water management authority from the drainage system account for the reasonable value of engineering work conducted as part of the transfer proceedings.

Subd. 7. **Guarantee of outlet; no compromise of existing rights.** (a) Any proceeding to transfer all or part of a drainage system to a water management authority must guarantee that all rights to an outlet are preserved for property assessed for benefits on the transferred drainage system of at least equal hydraulic efficiency as the rights to an outlet that existed on the date of transfer.

(b) The transfer of a drainage system to a water management authority is not a compromise of any property right held by an owner of assessed property on the transferred drainage system.

(c) A water management authority shall compensate any owner of property assessed for benefits on the transferred drainage system for the loss or impairment of any drainage rights occurring after transfer of the drainage system.

Subd. 8. **Effect of transfer.** (a) Except as provided in this section, after transfer of a drainage system, or any part thereof, to a water management authority, the drainage system ceases to be subject to regulation under this chapter except that if only a portion of a drainage system is transferred, the water management authority may be assessed for improvements under section 103E.215 or repairs under sections 103E.701 to 103E.711 in the manner provided under sections 103E.315 and 103E.601 to 103E.615. The water management authority may manage water within its jurisdictional boundaries according to whatever law controls the function of the water management authority. The transferred drainage system shall become a work and a responsibility of the transferee water management authority. All responsibility of the drainage authority for the transferred drainage system ends.

(b) Activities conducted in the transferred drainage system must continue to be eligible for all exemptions and exceptions available for activities conducted in public drainage systems under sections 103G.2241 and 103G.245.

Subd. 9. **Effect on other law.** This section does not amend, supersede, or repeal any existing law providing for the transfer of a drainage system under this chapter, chapter 103D, or other law, but is supplementary to those laws.

History: *2002 c 327 s 3*