

## CHAPTER 106.

S. F. No. 174.

Provides for  
drainage  
commission.

*An act to establish a drainage commission and to provide for the drainage of the swamp and marshy lands of the state.*

*Whereas*, by acts of congress of February 28, 1850, and March 12, 1860, there was granted to the State of Minnesota by the United States of America upward of five million (5,000,000) acres of swamp lands situated in different counties in the state of the value of more than three million seven hundred thousand dollars (\$3,700,000) and more than three-quarters thereof in value and acreage has heretofore been appropriated by said state; and,

*Whereas*, by the acts of congress granting said lands it was provided that the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands by means of levees and drains; and,

*Whereas*, the State of Minnesota is the owner of large tracts of low wet lands situate in different parts of the state, and the value of said lands will be greatly increased and the public health improved by draining the same;

Be it enacted by the Legislature of the State of Minnesota:

Governor,  
auditor and  
Secy. of  
State.

SECTION 1. That a commission consisting of the governor, the state auditor and the secretary of state, be, and the same hereby is, created, to be known as the drainage commission of the State of Minnesota. The governor shall be the chairman of the said commission, and preside at all meetings of said commission. A majority of the members of said commission shall have authority to act in all matters and perform all duties required to be performed by said commission.

Quorum.

Duty of  
commission.

SEC. 2. It shall be the duty of said commission as soon as practicable after the passage and approval of this act to ascertain the number of acres of low wet lands belonging to the state that it is necessary to drain in order to make them fit for agricultural purposes, and where the same is located, and what ditches and drains it shall be necessary to construct to drain the said land, and they shall cause to be constructed as many ditches of the size and capacity as they find necessary to effectually drain said lands so that they will be in a fit condition for farming. They are hereby authorized to repair,

extend, deepen or alter any ditch heretofore or hereafter constructed by the state or by its direction or authority when necessary to drain the lands originally intended to be drained by such ditch; and they are further authorized to determine when, where and in what manner the work herein provided shall be done; *provided*, that the said commission shall first construct the main ditches or drains they find most necessary, leaving those where the necessity for drainage is less pressing for subsequent construction, and if the moneys available are not sufficient to construct all the ditches or drains said commission find necessary to be constructed to effectually drain the said state lands, they shall construct as many as the money they have at their disposal will allow. In the execution of the provisions of this act the said commissioners shall have full power to appoint and employ as many agents and servants as they find necessary and proper to comply with the provisions hereof.

Power to  
employ  
agents.

SEC. 3. In performing the duties herein imposed upon them the commission hereby created shall have the right to take and appropriate all necessary land of any person or persons, firms or corporations, for the right of way for said ditches, and if the owner of any land that it is found necessary to so take or appropriate and the said commissioners are not able to agree on the price to be paid for the land necessary to be taken for the right of way for the said ditches, or the damage that will be sustained by reason of the construction of said ditch, or when the owner is unknown the said commission shall file a petition in the district court of the county wherein the land desired is situated, describing the land they deem necessary to take for the construction of said ditch, the name of the owner of the land, if known, to said commissioners, and if not known, said petition shall so state. Upon the filing of said petition the court shall appoint three disinterested persons commissioners, whose duty it shall be to assess the valuation of the land so to be taken, and the damages sustained for the taking of the same, taking into consideration, however, any benefits to the adjoining land of said owner by reason of the construction of said ditches or drains.

Right to  
appropriate  
land.

Filing of  
petition.

The commissioners before entering upon the duties of their office shall severally take and subscribe an oath to the effect that they will faithfully perform their duties

Oath.

as such commissioners without partiality, and to the best of their knowledge and ability, which oath shall be filed in the office (of the clerk) of the district court of the county in which the proceedings are pending.

**Notice.**

The commissioners shall fix a time and place for hearing all parties interested in said land, and give ten (10) days' notice to the owner thereof, if he is a resident of this state, by serving a notice in writing on him personally, and if he is not a resident of the state, by one

**Publication.**

publication of said notice in a newspaper printed and published in the county where the land to be taken is situate. The said notice shall state that the drainage commission have determined it necessary to take certain lands, describing them, for the purpose of the construction of a ditch or drain (describing the location of such ditch or drain); that the parties subscribing such notice have been appointed commissioners by the district court to ascertain and assess the damages for taking the land described in such notice, the name of the owners, if known, and if unknown such fact shall be stated, the time and place fixed by the commissioners for the hearing of the owners as to the value of the land taken and damages sustained by reason of such taking. At the time and place fixed in said notice the commissioners shall hear any evidence offered by the owners of said land taken and damages sustained, and after hearing the evidence and personal inspection of the premises the said commissioners shall assess and determine the value of the land taken and the damages sustained by reason of such taking, stating the value of each parcel of land and damage sustained to each piece or parcel of land separately, and file the same in the office of the clerk of the district court, and unless an appeal is taken, as hereinafter provided, the finding of said commissioners shall be conclusive as to the amount of damages sustained and value of the property taken, and the drainage commission hereby appointed shall pay the same to the owner of said land unless there appears of record a judgment, mortgage or other lien against the land so taken, in which case the drainage commission shall pay the amount so found into court to be paid to the parties that the court finds entitled thereto. That within ten (10) days after the filing of the report of said commissioners with the clerk, either the owner or any party interested in the land taken, or drainage commission may

**Finding  
amount of  
damage.**

appeal to the district court wherein the proceedings are pending, from the award of said commissioners. If the owners or other parties interested in the land taken appeals, he or they shall serve a notice in writing on the attorney general, stating that he appeals from the award of the commissioners filed in the office of the clerk of the district court, stating the county in which said award is filed and the date of filing and the title of the proceedings in which the award was made. If the drainage commission desires to appeal, they shall cause a similar notice to be served on the owner of the land or his attorney, if one appeared for him before said commissioners. Upon the perfecting of such appeal there shall be an action pending in the district court to determine the value of the land taken and the amount of damages sustained by the taking of the same, and shall be tried in said court in the same manner and be governed by the same rules as civil actions, and either party may appeal to the supreme court in the manner provided for appeals in civil actions.

Appeal to  
court.

SEC. 4. The proceeding provided in section three (3) shall not delay the construction of the contemplated ditch or drain, but the drainage commission may proceed to take possession of the land they deem necessary, and commence and prosecute the work required from and after the date of the filing the petition in the district court.

No delay in  
construc-  
tion.

SEC. 5. It shall be the duty of the board of county commissioners of every county in which ditches may be constructed pursuant to this act to preserve such ditches or drains from growth of weeds or accumulation of debris; any expense thereof shall be paid out of the general county fund.

Duty of Co.  
Comrs.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved April 5, 1905.