

for the purpose of carrying out the provisions of this chapter. The salaries of the necessary employees of the board, the per diem of the inspectors and examiners, their expenses, and all incidental expenses of the board in carrying out the provisions of this chapter shall be paid on order of the board from such appropriation, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

Approved April 24, 1959.

CHAPTER 655—S. F. No. 221

[Coded]

An act relating to the return of patients on provisional discharge from state hospitals; amending Minnesota Statutes 1957, 525.753 by adding a subdivision.

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

Section 1. Minnesota Statutes 1957, Section 525.753 is amended by adding a subdivision to read:

Subd. 7. Return of patients on provisional discharge. The superintendent of a state hospital upon revoking a provisional discharge may request the person to return voluntarily and when necessary request public health or welfare personnel to convey the patient to the hospital, or he may inform the probate court of such revocation and the court may direct the sheriff of the county where the patient is located to return such patient to the hospital for further care and treatment.

The expense of returning the patient to the hospital, unless paid by the patient or his relatives, shall be paid by the Commissioner of public welfare.

Approved April 24, 1959.

CHAPTER 656—H. F. No. 1495

[Coded in Part]

An act relating to eminent domain proceedings instituted by the State or by any of its agencies or political subdivisions; amending Minnesota Statutes 1957, Section 117.20.

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

Section 1. Minnesota Statutes 1957, Section 117.20, Subdivision 5, is amended to read :

Subd. 5. **Payment of damages.** Except as otherwise provided herein payment of damages awarded may be made or tendered at any time after the filing of the report; and the duty of the public officials to pay the amount of any award or final judgment upon appeal shall, for all purposes, be held and construed to be full and just compensation to the respective owners or the persons interested in the lands. If either the petitioner or any respondent appeals from an award, the respondent or respondents, if there is more than one, except encumbrancers, having an interest in the award which has been appealed, may demand of the petitioner a partial payment of the award pending the final determination thereof, and it shall be the duty of the petitioner to comply with such demand and to promptly pay the amount demanded but not in excess of an amount equal to three-fourths of the *award* of damages for the parcel which has been appealed, *provided however that the petitioner may by motion request, and the court may order reduction in the amount of the partial payment for cause shown.* Such partial payment may be made in the same manner as other payments are made under this chapter. A partial payment as herein provided shall not draw interest upon the amount thereof *from date of payment*, and upon final determination of any appeal the total award of damages shall be reduced by the amount of the partial payment. If any partial payment exceeds the amount of the award of compensation as finally determined, the petitioner shall have a claim against the respondents receiving such payment for the amount thereof, to be recoverable in the same manner as in any civil action.

Sec. 2. Minnesota Statutes 1957, Section 117.20 is amended by adding a new subdivision as follows :

Subd. 8. **Additional provisions, procedure.** *In all eminent domain proceedings instituted by the state or any of its agencies the following additional provisions shall control:*

(a) *In all cases a petition, describing the desired land, stating by whom and for what purposes it is proposed to be taken, and giving the names of all persons appearing of record or known to the petitioner to be the owners thereof shall be presented to the district court of the county in which the land is situated praying for the appointment of commissioners to*

appraise the damages which may be occasioned by such taking. Notice of the objects of the petition and of the time and place of presenting the same shall be served at least twenty days before such time of presentation upon all persons named in the petition as owners and upon all occupants of such land in the same manner as a summons in a civil action. If any such owner be not a resident of the state, or his place of residence be unknown to the petitioner, upon the filing of an affidavit of the petitioner, his agent or attorney, stating that he believes that such owner is not a resident of the state, and that he has mailed a copy of the notice to him at his place of residence, or that after diligent inquiry his place of residence cannot be ascertained by the affiant, then service may be made upon such owner by three weeks' published notice. If the state be an owner, the notice shall be served upon the attorney general. No owner not served as herein provided shall be bound by such proceeding unless he voluntarily appears therein. Any owner shall be furnished a right of way map or plat of all that part of his land taken upon written demand, provided that the petitioner shall have ten days from the receipt of the demand within which to furnish the same. Any plans or profiles which the petitioner has shall be made available to the owner for inspection.

(b) The commissioners, having qualified according to law, shall meet as directed by the order of appointment and hear the allegations and proofs of all persons interested touching upon the matters to them committed in accordance with the procedures set forth in Section 117.08, except as hereinafter provided.

(c) Such appeal may be noticed for trial as in the case of a civil action, and the court may direct that issues be framed, and require other parties to be joined and to plead therein when necessary for the proper determination of the questions involved. The cause shall be tried by a jury, unless the parties otherwise agree, and the court or jury trying the same shall reassess the damages and apportion the same as justice may require. Whenever the state is acquiring property, the jury or court shall show in the verdict or order the amount of the award of damages which is to reimburse the owner and tenant or lessee, for the value of the land taken, and the amount of the award of damages, if any, which is to reimburse the owner and tenant or lessee for damages to other property involved. The amounts awarded to each person shall also be shown separately. Except as herein otherwise provided, the trial shall be conducted and the cause disposed of according to the rules applicable to ordinary civil actions in the

district court. A commissioner in a condemnation proceeding may be called by any party as a witness to testify as to the amount of the award of the Commissioners.

(d) *The court may, in its discretion, after a verdict has been rendered on the trial of an appeal allow as taxable costs reasonable appraisers' fees not to exceed \$150 for each appraiser and not more than two appraisers. The court may, in its discretion allow as taxable costs reasonable expenses for moving personally incurred by a person occupying a residence and who is the fee owner, contract for deed vendee or lessee under a written lease but such amount shall in no event exceed \$200.00. Where business property has been acquired, the court may in its discretion allow as taxable costs the reasonable expenses of moving personally if such expenses have been incurred by an occupant or have been incurred by an owner occupying the property as the fee owner, contract for deed vendee or lessee under a written lease, but in no event shall this amount exceed \$500.00. No costs shall be taxed by the state against any other party.*

Sec. 3. Effective date. *Section 1 of this Act and Subd. 8, paragraph (d), set out in Sec. 2 of this Act, apply to proceedings in eminent domain commenced or pending on or after January 1, 1959. For purposes of this section an action is deemed pending if any final award, settlement, verdict or judgment has not been paid in full.*

Approved April 24, 1959.

CHAPTER 657—H. F. No. 1262

[Coded]

An act relating to municipal courts, administrative procedures therein pertaining to assignment of judges; amending Minnesota Statutes 1957, Section 2.724, by adding thereto a new subdivision.

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

Section 1. *Minnesota Statutes 1957, Section 2.724 is amended by adding thereto a subdivision to read:*

Subd. 3. Assignment of judges. *When public convenience and necessity require it, the chief justice of the supreme court may assign any municipal judge of the state to serve and discharge the duties of a municipal judge in any*