
CHAPTER 161—S.F.No.1164

[Not Coded]

An act relating to Olmsted county; permitting sidewalk and related improvements to be financed by special assessment; Rochester city officials' salaries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. OLMSTED COUNTY AND ROCHESTER, CITY OF; SIDEWALKS AND SALARIES. The county board of Olmsted county may improve any street or other public thoroughfare by constructing, reconstructing, and maintaining sidewalks, pavement, gutters, curbs and vehicle parking strips of any material. The board may discharge the expense in any manner lawful for a county or by special assessment in the same way as a municipality under Minnesota Statutes, Chapter 429.

This section is effective upon its approval by the county board of Olmsted county and compliance with Minnesota Statutes, Section 645.021.

Sec. 2. Notwithstanding Minnesota Statutes, Section 415.11, Subdivision 2, salaries established by ordinance of the city of Rochester for the mayor and aldermen for the years 1977 and 1978 shall be effective retroactively to April 4, 1977. This section is effective the day following final enactment.

Approved May 19, 1977.

CHAPTER 162—S.F.No.1166

An act relating to administrative procedures; providing for water resource and conservation hearings to be held in accordance with the administrative procedure act; amending Minnesota Statutes 1976, Sections 105.44, Subdivisions 3, 5, 6, 7 and 8; 105.45; and 105.461; repealing Minnesota Statutes 1976, Section 105.47.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 105.44, Subdivision 3, is amended to read:

Subd. 3. WATER RESOURCES CONSERVATION; WAIVER OF HEARING. The commissioner in his discretion may waive hearing on any application and make his order granting or refusing such application. In such case, if any application be granted, with or without conditions, or be refused, the applicant, the managers of the watershed district, or the chief executive officer of the city or town may within 30 days after mailed notice thereof file with the commissioner a demand for hearing on the application. The

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application shall thereupon be fully heard on notice as hereinafter provided, and determined the same as though no previous order had been made. Any hearing pursuant to this section shall be conducted as a contested case in accordance with chapter 15. If the commissioner elects to waive a hearing, and if no demand for hearing be made, the order shall become final at the expiration of 30 days after mailed notice thereof to the applicant, managers of the watershed district, or the chief executive officer of the city or town, and no appeal of the order may be taken to the district court.

Sec. 2. Minnesota Statutes 1976, Section 105.44, Subdivision 5, is amended to read:

Subd. 5. **NOTICE.** The notice of hearing on any application shall recite the date, place and time fixed by the commissioner for the public hearing thereon and shall show the waters affected, the levels sought to be established or any control structures proposed. The notice shall be published by the commissioner at the expense of the applicant or, if the proceeding is initiated by the commissioner in the absence of an applicant, at the expense of the commissioner, once each week for two successive weeks prior to the day of hearing in a legal newspaper published in the county in which a part or all of the affected waters are located. Notice shall also be mailed by the commissioner to the county auditor and the chief executive official of any municipality or watershed district affected. The commissioner shall also fulfill any notice requirements prescribed by section 15.0418 and rules of the chief hearing examiner.

Sec. 3. Minnesota Statutes 1976, Section 105.44, Subdivision 6, is amended to read:

Subd. 6. **HEARING COSTS.** ~~The hearings shall be public and shall be conducted by the commissioner or a referee appointed by him. All affected persons shall have an opportunity to be heard. All testimony shall be taken under oath and the right of cross-examination shall be accorded. The commissioner shall provide a stenographer to take testimony and a record of the testimony and all proceedings at the hearing shall be taken and preserved. The commissioner shall not be bound by judicial rules of evidence or of pleading and procedure. Except where a public hearing is demanded by a public authority which is not the applicant, the applicant shall pay the following, if after the hearing the commissioner's action, taken pursuant to subdivision 2, is affirmed without material modification: (1) Costs of the stenographic record and transcript, (2) Rental expenses, if any, of the place of hearing, (3) Costs of publication of orders made by the commissioner; however, in no event shall the applicant pay more than \$750.~~

Where the public hearing is demanded by a public authority which is not the applicant, the public authority making the demand shall pay the costs and expenses listed above. An applicant filing a demand for a public hearing shall execute and file a corporate surety bond or equivalent security to the state of Minnesota, to be approved by the commissioner, and in an amount and form fixed by the commissioner. The bond or security shall be conditioned for the payment of all costs and expenses of the public hearing if the commissioner's action taken pursuant to subdivision 2 is affirmed without modification. No bond or security is required of a public authority which demands a public hearing. The commissioner, in his discretion, may waive the requirement for a bond or other security. In all other instances, costs of the hearing shall be borne in the manner prescribed by chapter 15 and the chief hearing examiner.

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Sec. 4. Minnesota Statutes 1976, Section 105.44, Subdivision 7, is amended to read:

Subd. 7. **SUBPOENA AUTHORITY.** The commissioner may subpoena and compel the attendance of witnesses and the production of all books and documents material to the purposes of the hearing. Disobedience of every such subpoena; ~~or refusal to be sworn; or to answer as a witness;~~ shall be punishable as a contempt in like manner as a contempt of the district court on complaint of the commissioner before the district court of the county where such disobedience or refusal occurred.

Sec. 5. Minnesota Statutes 1976, Section 105.44, Subdivision 8, is amended to read:

Subd. 8. **PERMIT TO IRRIGATE AGRICULTURAL LAND.** When an application for permit to irrigate agricultural land from public waters is made, a general statement in the application of the purpose of the proposed use of public waters and the acreage to be irrigated shall be sufficient compliance with the requirements of subdivision 1 with respect to maps, plans and specifications, unless the commissioner ~~reasonably may require~~ requires reasonable additional specified information within ten days of the filing of the application. In any such case the commissioner shall make his order granting the application ~~unless he finds after hearing, conducted in the manner prescribed by chapter 15 and this section,~~ that granting thereof would be against the public interest or would deprive another than the applicant of the share of public water which such other has requested and to which he is entitled. In the case of an application for permit to irrigate agricultural land, failure of the commissioner to act thereon by granting or denial or other hearing thereon within 30 days after filing of the application, or in case the commissioner has reasonably required additional specified information than that given in the application within 20 days after the filing of such additional information, shall be deemed an order granting the application.

Sec. 6. Minnesota Statutes 1976, Section 105.45, is amended to read:

105.45 **PERMITS AND ORDERS OF COMMISSIONER; NOTICE.** The commissioner shall make findings of fact upon all issues necessary for determination of the applications ~~heard~~ considered by him. All orders made by the commissioner shall be based upon findings of fact made on substantial evidence. He may cause investigations to be made, and in such event the facts disclosed thereby shall be put in evidence at the hearing or any adjournment thereof.

If the commissioner concludes that the plans of the applicant are reasonable, practical, and will adequately protect public safety and promote the public welfare, he shall grant the permit, and, if that be in issue, fix the control levels of public waters accordingly. In all other cases the commissioner shall reject the application or he may require such modification of the plan as he deems proper to protect the public interest. In all permit applications the applicant has the burden of proving that the proposed project is reasonable, practical, and will adequately protect public safety and promote the public welfare.

In granting a permit the commissioner may include therein such terms and reservations with respect to the amount and manner of such use or appropriation or

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method of construction or operation of controls as appears reasonably necessary for the safety and welfare of the people of the state.

Notice of all orders made after hearing shall be given by publication of the order once each week for two successive weeks in a legal newspaper in the county where the hearing was held, and by mailing copies of the order to all parties who entered an appearance at such hearing.

The commissioner shall make his order pursuant to hearing within 60 days after the completion of the hearing.

Sec. 7. Minnesota Statutes 1976, Section 105.461, is amended to read:

105.461 **ORDERS TO RESTORE.** As a part of any order granting or denying a permit, whether or not a hearing has been held, the commissioner may order the applicant to take any action necessary to restore the public waters or beds thereof to the condition existing before unlawful activities, if any, were undertaken by the applicant. This restoration may include, but not be limited to, filling beds unlawfully dredged, removing fill unlawfully placed, or restoring water unlawfully appropriated. If a hearing on the application was not held, the applicant may, within 30 days of the receipt of an order to restore public waters or beds, contest the order and shall be afforded a contested case hearing in the manner prescribed by chapter 15.

Sec. 8. Minnesota Statutes 1976, Section 105.47, is repealed.

Sec. 9. This act is effective the day following final enactment.

Approved May 19, 1977.

CHAPTER 163—S.F.No.1234

[Coded]

An act relating to education; authorizing the state board of education to create additional advisory task forces; amending Minnesota Statutes 1976, Section 15.014, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 15.014, is amended by adding a subdivision to read:

Subd. 3. EDUCATION; CURRICULUM DEVELOPMENT TASK FORCES. In addition to the task forces for which compensation of members is authorized in subdivision 2, the state board of education may create not to exceed ten task forces, to be compensated as provided in section 15.059, subdivision 6. A task force created pursuant to this subdivision shall be for curriculum development purposes only and shall expire

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