

(a) Nothing in sections 7 to 11 invalidates:

(1) any instrument or property relationship that is executed and irrevocable as of the effective date of this act; or

(2) any action commenced prior to the effective date of this act, provided that the instrument, property relationship, or action otherwise complies with the provisions of Minnesota Statutes, chapter 501, in effect when the action was commenced.

(b) Sections 7 to 11 apply to all instruments, property relationships, and proceedings existing on or after the effective date of this act.

Approved March 25, 1986

CHAPTER 443—H.F.No. 1782

An act relating to natural resources; enacting the lake improvement district act; providing for the creation, powers, and termination of lake improvement districts; amending Minnesota Statutes 1984, sections 378.41; 378.42; 378.43; 378.44; 378.46; 378.47; 378.51; 378.52; 378.54 378.55; 378.56; 378.57; and 459.20; proposing coding for new law in Minnesota Statutes, chapter 378.

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

Section 1. [378.401] CITATION.

Sections 2, 7, and 378.41 to 378.57 may be cited as the lake improvement district act.

Sec. 2. [378.405] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 2, 7, and 378.41 to 378.57.

Subd. 2. BOARD. "Board" means county board.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of natural resources.

Subd. 4. DISTRICT. "District" means a lake improvement district.

Subd. 5. JOINT COUNTY AUTHORITY. "Joint county authority" means a joint county authority formed by county boards under section 378.44.

Subd. 6. PROPERTY OWNER. "Property owner" means the owner of real property within the district or the buyer under contract for deed of property in the district.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 1984, section 378.41, is amended to read:

378.41 ESTABLISHMENT OF LAKE IMPROVEMENT DISTRICTS ADMINISTRATION BY COMMISSIONER.

Subdivision 1. **PURPOSE.** (a) In furtherance of the policy declared in section 378.31, the commissioner of ~~natural resources~~ shall coordinate and supervise a local-state program for the establishment of lake improvement districts by counties ~~and cities~~ for lakes located within their boundaries based on state guidelines and regulations and compatible with all state, regional, and local plans where ~~such~~ the plans exist.

(b) In administration of this program the commissioner of natural resources shall consult with and obtain advice from other state agencies on those aspects of the program for which the agencies have specific legislative authority including but not limited to the department of health and the pollution control agency.

Subd. 2. **RULES.** The commissioner of ~~natural resources, before April 1, 1979,~~ shall ~~promulgate~~ adopt permanent and emergency rules pursuant to chapter 15 which ~~to~~ provide guidelines, criteria and standards for establishment of lake improvement districts by counties ~~and cities~~.

~~Subd. 3. In order to finance the development and implementation of programs for water and related land resources management pursuant to sections 378.31 to 378.32, the county board of any county may designate areas within the county, including bodies of water and related land areas, as lake improvement districts.~~

Sec. 4. Minnesota Statutes 1984, section 378.42, is amended to read:

378.42 CREATION INITIATION AND ESTABLISHMENT BY COUNTY BOARD.

Subdivision 1. **RESOLUTION OF INTENT.** The county board may ~~establish~~ initiate the establishment of a lake improvement district in a portion of the county ~~by adoption of an appropriate resolution under this section. The board must adopt a resolution declaring the intent of the board to establish a lake improvement district.~~ The resolution shall must:

(1) specify the ~~territorial~~ boundaries of the area district, which shall be encouraged to be as consistent as ~~possible~~ practical with natural hydrologic boundaries;

(2) prescribe the type or types of water and related land resource management programs to be undertaken in the area, a statement of the means by which district;

(3) state how the programs will be financed; ~~and a designation of;~~

(4) designate the county officer or agency ~~who~~ that will be responsible for supervising the programs; and

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(5) set a date for a hearing on the resolution.

Subd. 1a. NOTICE TO TOWN BOARD. The county board shall, at least 30 days before making an order establishing a lake improvement district, send the town board of a town wholly or partially within the boundaries of the proposed district a copy of the resolution to the town board and encourage the town board to respond to the proposed creation of the district.

Subd. 2. HEARING. Before the adoption of such a resolution, The county board shall ~~must~~ hold a public hearing on the question of whether or not a lake improvement district shall ~~should~~ be established. Before the date set for the hearing, any interested person may file his objections to the formation of such the district with the county auditor. At the hearing, any interested person may offer objections, criticisms, or suggestions as to about the necessity of the proposed district as outlined and to the question of whether his how the person's property will be benefited or affected by the establishment of the district.

Subd. 3. ESTABLISHMENT. Following the hearing, (a) The county board may establish a lake improvement district, by order, after making findings, if it appears to the board; after consideration of all testimony; determines that the:

(1) proposed district is necessary or that the public welfare will be promoted by the establishment of the district; that the;

(2) property to be included in the district will be benefited by the establishment thereof; and that the establishing the district; and

(3) formation of the proposed district will not cause or contribute to long range environmental pollution; the county board, by formal order, shall declare its findings; shall establish the boundaries of the district and shall declare the district organized and give it a corporate name by which it shall be known.

(b) The order establishing the district must state the board's findings and specify or prescribe those matters contained in subdivision 1, paragraphs (1) to (4).

Sec. 5. Minnesota Statutes 1984, section 378.43, is amended to read:

378.43 INITIATION BY PETITION FOR CREATION AND ESTABLISHMENT BY COUNTY BOARD.

Subdivision 1. PETITION. A petition signed by 51 percent of the resident owners as defined in section 112.35, subdivision 21, within the proposed lake improvement district as specified in the petition shall be filed with the county clerk and addressed to the board requesting the establishment of a lake improvement district to develop and provide a program of water and related land resources management. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The petition shall set forth the following:

(1) The name of the proposed district;

(2) The necessity for the proposed district so that the public health or public welfare will be promoted by the establishment of the district and that the lands to be included therein will be benefited by the establishment or accomplish any of the purposes of a lake improvement district;

(3) The boundaries of the territory, which shall be as consistent as possible with natural hydrologic boundaries, to be included in the proposed district;

(4) A map of the proposed district;

(5) The number of managers proposed for the district. The managers shall not be less than three nor more than five and be selected from a list of ten nominees; and

(6) A request for the organization of the district as proposed: (a) A lake improvement district may be initiated by a petition to the county board. The petition must state:

(1) the name of the proposed lake improvement district;

(2) the necessity of the proposed district to promote public health or public welfare;

(3) the benefits to property from the establishment of the lake improvement district;

(4) the boundaries of the proposed district which shall be encouraged to be as consistent as possible with natural hydrologic boundaries;

(5) a map of the proposed district;

(6) the number, from five to nine, of directors proposed for the district; and

(7) a request for establishing the district as proposed.

(b) A petition must be signed by 26 percent of the property owners within the proposed lake improvement district described in the petition. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

(c) The petition must be filed with the county auditor and addressed to the board requesting the board to establish of a lake improvement district to develop and provide a program of water and related land resources management.

(d) The county board shall, at least 30 days before it acts on a petition, send the town board of a town wholly or partially within the boundaries of a proposed district a copy of the petition submitted under subdivision 1 and encourage the town board to respond to the proposed creation of the district.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **HEARING.** Upon receipt of the petition, and verification of the signatures thereon by the county auditor, the county board shall, within 30 days following verification, hold a public hearing on the question of whether or not the requested lake improvement district shall be established. After receiving the petition, the county auditor must verify the signatures and notify the county board. Within 30 days after being notified of the petition, the county board must hold a public hearing on whether the requested lake improvement district should be established.

Subd. 3. **ESTABLISHMENT.** Within 30 days following the holding of a public hearing the county board by resolution shall approve or disapprove the establishment of the requested lake improvement district and give it a corporate name by which it shall be known. A resolution approving the creation of the lake improvement district may contain modifications of the area's boundaries, functions, financing, or organization from what was set forth in the petition. Within 30 days after holding the public hearing, the county board shall, by order, establish or deny the establishment of the petitioned lake improvement district. An order establishing a district must conform to section 7 and may modify the petition relating to the district's boundaries, functions, financing, or organization.

Sec. 6. Minnesota Statutes 1984, section 378.44, is amended to read:

378.44 JOINT ACTION ESTABLISHMENT OF A DISTRICT IN MORE THAN ONE COUNTY. Where the natural hydrologic boundaries of an area a proposed district extend into more than one county, the county boards of the counties affected may form a joint county authority and establish and maintain a lake improvement district jointly or cooperatively as provided in section 471.59; either on their own motion or pursuant to petition. The district may be initiated by the joint county authority in the same manner as a county board under section 378.42 or by petition to the affected county boards.

Sec. 7. **[378.455] ORDER ESTABLISHING DISTRICT.**

An order by the county board or joint county authority establishing a district must state the:

- (1) name of the district;
- (2) boundaries of the district, which are encouraged to be as consistent as practical with natural hydrologic boundaries;
- (3) water and related land resources management programs and services to be undertaken;
- (4) manner of financing programs and services; and
- (5) number, qualifications, terms of office, removal, and filling of vacancies of the board of directors.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 8. Minnesota Statutes 1984, section 378.46, is amended to read:

378.46 PUBLICATION AND EFFECTIVE DATE.

Upon passage of a county board resolution authorizing the creation of a lake improvement district, the county board or boards shall cause the resolution to be published once in the official newspapers and filed with the secretary of state, the pollution control agency and the commissioner of natural resources. The lake improvement district shall be deemed established 30 days after publication or at such later date as may be specified in the resolution.

Subdivision 1. PUBLICATION OF ESTABLISHMENT ORDER. If a lake improvement district is established, the county board, or joint county authority issuing the order establishing the district, shall publish the order once in the official newspapers of counties where the district is located and file the order with the secretary of state, the pollution control agency, and the commissioner of natural resources.

Subd. 2. EFFECTIVE DATE. Establishment of the lake improvement district is effective 30 days after publication or at a later date, if specified in the establishment order.

Sec. 9. Minnesota Statutes 1984, section 378.47, is amended to read:

378.47 REFERENDUM ON ESTABLISHMENT.

Subdivision 1. **PETITION.** Upon receipt of a petition signed by twenty-five percent of the resident owners within the territory of the lake improvement district specified in the resolution adopted pursuant to section 378.42 prior to the effective date of its creation as specified in section 378.46, the county board or boards shall hold the creation in abeyance pending referendum vote of all qualified voters and resident owners residing within the boundaries of the proposed lake improvement district. Twenty-six percent of the property owners within the lake improvement district established by the board or a joint county authority on its own initiative under section 378.42 may petition for a referendum on establishing the district before the effective date of its establishment. After receiving the petition, the county board or joint county authority must issue an order staying the establishment until a referendum vote is taken of all qualified voters and property owners within the proposed lake improvement district.

Subd. 2. **ELECTION.** The county board or boards joint county authority shall make arrangements for the holding of conduct a special election not less than 30 nor more than 90 days in July or August after receipt of such receiving the referendum petition. The special election must be held within the boundaries of the proposed lake improvement district specified in the resolution adopted pursuant to section 378.42. If a general election will be held within the time specified, the vote on creation may be held as part of the general election. The county auditor shall administer the special election.

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Subd. 3. QUESTION SUBMITTED TO VOTERS. The question to be submitted and voted upon by the qualified voters and ~~resident property~~ owners within the territory of the proposed lake improvement district ~~shall~~ must be ~~phrased stated~~ substantially as follows:

~~“Shall Should~~ a lake improvement district be established ~~in order~~ to provide (description of intended water and related land resources improvements) and financed by (description of revenue sources)?”

Subd. 4. CERTIFICATION OF VOTE AND ESTABLISHMENT. ~~Upon~~ certification of the vote by The county auditor, must certify the vote on the question submitted. If a majority of those voting on the question favor creation of establishing the proposed lake improvement district, the ~~lake improvement~~ stay on establishing the district ~~shall be deemed created is lifted.~~ If a majority of those voting on the question do not favor establishing the proposed lake improvement district, the establishment is denied.

Sec. 10. Minnesota Statutes 1984, section 378.51, is amended to read:

378.51 BOARD OF DIRECTORS.

Subdivision 1. MEMBERSHIP. After ~~creation of~~ a lake improvement district is established, the county board or ~~boards~~ joint county authority shall appoint persons to serve as a an initial board of directors for the ~~lake improvement~~ district. The number, qualifications, terms of office, removal, and filling of vacancies of directors shall be as provided in the ~~resolution order~~ creating the board of directors. The ~~initial board~~ and all subsequent boards of directors ~~shall~~ must include persons owning property within the district, ~~at least one of whom is a resident and a majority of the directors must be residents~~ of the district.

Subd. 2. COMPENSATION. The directors shall serve ~~without~~ with compensation ~~but as determined by the property owners at the annual meeting and~~ may be reimbursed for their actual expenses necessarily incurred in the performance of their duties in the manner provided for county employees.

Subd. 3. POWERS. ~~When directed by resolution of the county board or boards creating it, the board of directors shall have, exercise, and perform the powers and duties of the county board under section 378.31, except the power to acquire property by eminent domain~~ County boards, joint county authorities, statutory and home rule cities, and towns may, by order, delegate the powers in this section to the board of directors of a district to be exercised within the district. Programs and services undertaken must be consistent with the state-wide water and related land resources plan prepared by the commissioner of natural resources, and with regional water and related resources plans. A body of water may not be improved by using authority granted under this section unless the public has access to some portion of the shoreline. County boards, joint county authorities, statutory and home rule cities, and towns may delegate their authority to a district board of directors to:

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(1) acquire by gift or purchase an existing dam or control works that affects the level of waters in the district;

(2) construct and operate water control structures that are approved by the commissioner of natural resources under section 105.42;

(3) undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 105.42;

(4) acquire property, equipment, or other facilities, by gift or purchase to improve navigation;

(5) contract with a board of managers of a watershed district within the lake improvement district or the board of supervisors of a soil and water conservation district within the district for improvements under chapters 40 and 112;

(6) undertake research to determine the condition and development of the body of water and the water entering it and to transmit the studies to the pollution control agency and other interested authorities;

(7) develop and implement a comprehensive plan to eliminate water pollution;

(8) conduct a program of water improvement and conservation;

(9) construct a water, sewer, or water and sewer system in the manner provided by section 444.075 or other applicable laws;

(10) receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs;

(11) make cooperative agreements with the United States or state government or other county or city to effectuate water and related land resource programs;

(12) maintain public beaches, public docks, and other public facilities for access to the body of water;

(13) provide and finance a government service of the county or statutory or home rule city that is not provided throughout the county or, if the government service is provided, the service is at an increased level within the district; and

(14) regulate water surface use as provided in section 378.32.

Sec. 11. Minnesota Statutes 1984, section 378.52, is amended to read:

378.52 FINANCING.

Subdivision 1. REVENUE. The county board or boards in order to accom-

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~~plish the purposes specified in the resolution creating a lake improvement district~~ joint county authority may undertake projects of improvement consistent with ~~these purposes and of the district.~~ To finance projects and services of the district, the county board or joint county authority may:

(1) assess the costs of the projects upon benefited property within the district in the manner provided ~~in~~ under chapter 429; ~~may;~~

(2) impose service charges on the users of lake improvement district services within the ~~area; and may~~ district;

(3) issue obligations as provided in section 429.091;

(4) levy an ad valorem tax solely on property ~~situated~~ within the lake improvement district, to be appropriated and expended solely on projects of special benefit to the ~~area; district;~~ district; or

(5) ~~may impose or issue~~ any combination of service charges, special assessments, obligations, and taxes.

Subd. 2. **TAX EXCLUDED FROM OTHER LIMITATIONS.** The tax ~~provided for by under~~ subdivision 1 ~~shall not be subject to any is excluded from~~ statutory ~~limitation as to~~ limitations on the amount of taxes levied and ~~shall~~ does not affect the amount or rate of taxes that may be levied for other county purposes. ~~Such~~ A tax under subdivision 1 may be in addition to ~~any~~ amounts levied ~~upon~~ on all taxable property in the county for the same or similar purposes.

Subd. 3. **BUDGETING FOR OPERATIONS.** ~~Upon adoption of its annual budget,~~ The county board or county boards forming the joint county authority shall include appropriate provisions in its budget for the operation of ~~the a~~ lake improvement district.

Sec. 12. Minnesota Statutes 1984, section 378.54, is amended to read:

378.54 ENFORCEMENT OF ORDINANCES.

Where a lake improvement district has been established by joint county action under section 378.44 or order of the commissioner of natural resources under section 378.45, ordinances and regulations adopted by joint action of the affected county boards may be enforced in any part of the lake improvement district by personnel of any of the affected counties.

Sec. 13. Minnesota Statutes 1984, section 378.55, is amended to read:

378.55 EXPANSION OF THE BOUNDARIES OF A LAKE IMPROVEMENT DISTRICT.

A county board, ~~on its own motion or pursuant to petition,~~ may enlarge any existing lake improvement district pursuant to the procedures specified in The boundary of a district may be enlarged by complying with the procedures to establish a district under sections 378.41 to 378.46.

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Sec. 14. Minnesota Statutes 1984, section 378.56, is amended to read:

378.56 TERMINATION.

Subdivision 1. **PETITION.** ~~Upon receipt of a Termination of a district may be initiated by petition requesting the termination of the district. The petition must be signed by 54 26 percent of the resident property owners within the territory of the lake improvement district requesting the termination of the lake improvement district, in a district within 30 days after receiving a petition. The county board or boards shall within 30 days after receipt of such a petition, by its order fix joint county authority must set a time and place, for a hearing thereon on terminating the district.~~

Subd. 1a. **FINDINGS AND ORDER.** If the board or boards joint county authority determine that the existence of the district is no longer in the public welfare or public interest and it is not needed to accomplish the purpose of sections 378.31 to 378.57 the board or boards joint county authority shall by its make the findings and order terminate the district by order. Upon filing a certified copy of the findings and order with the secretary of state, pollution control agency, and commissioner of natural resources the district ~~shall cease~~ is terminated and ceases to be a political subdivision of the state.

Subd. 2. **TERMINATION OF FINANCING.** If a ~~lake improvement~~ district is terminated ~~pursuant to~~ under subdivision 1, ~~no~~ additional water and related land resource management programs ~~shall may not~~ be undertaken with money raised by a special tax within the district, and ~~no~~ additional special water and related land resource management taxes ~~shall may not~~ be levied within the district. ~~When~~ If money raised by past special tax levies within the district has been exhausted, further operation and maintenance of existing programs may be financed by appropriations from the general revenue fund of ~~the an~~ an affected county.

Sec. 15. Minnesota Statutes 1984, section 378.57, is amended to read:

378.57 ANNUAL MEETING OF DISTRICT.

Subdivision 1. TIME. ~~Every lake improvement~~ A district ~~shall must~~ have an annual meeting. The first annual meeting shall be scheduled during the months of July or August, and ~~shall~~ be held annually ~~thereafter~~ in that period unless changed by vote of the previous annual meeting.

(1) Subd. 2. NOTICE. The annual meeting shall be preceded by written notice mailed at least ten days in advance of the meeting to all resident property owners within the district and to the pollution control agency and commissioner of natural resources.

(2) Subd. 3. AGENDA. At the annual meeting the district property owners present shall:

(a) (1) elect one or more directors to fill vacancies in the district board; of directors;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) (2) approve a budget for the ~~coming~~ fiscal year;

(c) (3) approve or disapprove ~~all~~ proposed projects by the district having a cost to the district in excess of \$5,000; ~~by vote of the resident owners within the district; and~~

(d) (4) take up and consider ~~such~~ other business as comes before it.

Sec. 16. Minnesota Statutes 1984, section 459.20, is amended to read:

459.20 AUTHORITY OVER PUBLIC WATERS.

The governing body of any home rule charter or statutory city or town in the state has, with respect to any body of water situated wholly within its boundaries, all the powers to improve and regulate the use of such body of water as are conferred on county boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts under sections ~~378.41~~ 378.401 to 378.57. With respect to any body of water situated wholly within the contiguous boundaries of two or more home rule charter or statutory cities or towns or any combination thereof, the city councils and town boards may, under the provisions of section 471.59, jointly exercise such powers to improve and regulate the use of the body of water as are conferred on county boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts as provided under sections ~~378.41~~ 378.401 to 378.57, provided that, no home rule charter or statutory city or town may establish and administer a lake improvement district or exercise any of the powers granted in this section if a lake improvement district covering the same territory has been created by a county board under sections ~~378.41~~ 378.401 to 378.57. References in sections 378.31 to 378.35 and ~~378.41~~ 378.401 to 378.57 to the county board shall be construed to refer to the governing body of a home rule charter or statutory city or the board of supervisors of a town.

Sec. 17. INSTRUCTION TO REVISOR.

The revisor of statutes shall renumber section 378.57 as 378.545.

Sec. 18. EFFECTIVE DATE.

Sections 1 to 17 are effective the day after final enactment.

Approved March 25, 1986

CHAPTER 444—H.F.No. 1824

An act relating to statutes; adopting as amended a gender neutral revision of Minnesota Statutes; providing for no substantive change; granting certain editorial authority to the revisor of statutes; amending Minnesota Statutes 1984, sections 3C.10, subdivision 1; and 645.44, by adding a subdivision.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.